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HOUSE BILL NO. 2539

House Amendments in [] - February 7, 2005

A BILL to amend and reenact §§ 24.2-923 and 24.2-929 of the Code of Virginia, relating to campaign finance disclosure; report filing schedule for committees; penalties.

Patron Prior to Engrossment—Delegate Jones, S.C.

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-923 and 24.2-929 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-923. Filing schedule for persons and political committees.

A. Persons and political committees shall file the prescribed reports of contributions and expenditures with the State Board in accordance with the applicable schedule set out in subsections C, D, and E. The first filed report shall be complete for the entire period from the time the committee was organized or contributions were received. Each political party committee for a county, city, or local district that is required to file the prescribed reports shall also file the report with the local electoral board for its jurisdiction.

B. The reporting requirements shall continue in effect for each committee until a final report is filed that sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all residual funds. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final.

C. Persons and political committees shall file the prescribed reports of contributions and expenditures as follows:

1. Not later than April 15 complete from the preceding report through March 31;

2. Not later than July 15 complete from the preceding report through June 30;

3. Not later than October 15 complete from the preceding report through September 30; and

4. Not later than January 15 complete from the preceding report through December 31, and then continuing in accordance with this subsection until a final report is filed.

D. In addition to the ~~semi-annual~~ quarterly reports required by subsection C, persons and political committees shall file a pre-election report not later than the eighth day before the election date complete from the preceding report through the thirteenth day before the election date: (i) if previously unreported expenditures relating to a primary, special or general election totaling \$500 or more have been made to or on behalf of a single candidate for local office, \$1,000 or more have been made to or on behalf of a single candidate for the General Assembly, or \$5,000 or more have been made to or on behalf of a single candidate for Governor, Lieutenant Governor, or Attorney General; (ii) if previously unreported expenditures relating to a primary, special or general election totaling \$1,000 or more have been made to or on behalf of candidates for local office in a single locality, totaling \$2,500 or more have been made to or on behalf of candidates for the General Assembly, or \$7,500 or more have been made to or on behalf of candidates for Governor, Lieutenant Governor, and Attorney General; or (iii) if any previously unreported expenditure of \$500 or more has been made in the form of a contribution to any political committee or any political party committee, including any state, district, county, city, or local political party committee. Any person or political committee that would have been required to file a pre-election report pursuant to this subsection except for the fact that its expenditures did not meet the criteria of this subsection until after the thirteenth day before the election shall file a pre-election report complete from the preceding report filed by it through the day the criteria were met, within 24 hours of meeting the criteria; and such reports shall be reported in writing as provided in § 24.2-914 or electronically pursuant to § 24.2-914.1 and received by the State Board or local electoral board, as appropriate, by the end of the next business day report any single contribution or loan of [\$5,000 \$10,000] or more received at any time during the calendar year within [~~two~~ three] business days of receipt of the contribution or loan. The report shall be filed on a "large dollar contribution report" form prescribed by the State Board and shall be filed in writing or electronically in the same manner as the person or committee files its quarterly disclosure reports. Any contribution or loan reported pursuant to this subsection shall also be reported on the next subsequent report required under subsection C following receipt of the contribution or loan. For the purposes of this subsection, persons and political committees shall report as one contribution multiple contributions from a single source that have been subdivided into smaller amounts or given through different bank accounts for the purpose of evading the [\$5,000 \$10,000] threshold. A political committee that receives contributions from affiliated organizations shall not be deemed to be receiving contributions from a single source.

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59 E. Persons and political committees shall also file reports in accordance with the schedule for a
60 general, special, or primary election set out in § 24.2-919 for certain large pre-election contributions only
61 for the general, special, or primary election to which the contribution pertains.

62 F. The State Board shall provide for a "no activity" report that may be filed for any period set out in
63 subsection C in which the filer has no activity to report.

64 § 24.2-929. Penalties for violations of chapter.

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

67 1. In the case of a failure to file or late filing of the statement of organization for a candidate
68 required by § 24.2-904 or for a committee required by § 24.2-908, there shall be a civil penalty not to
69 exceed \$500.

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

73 3. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title, that relates to
74 the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil
75 penalty not to exceed \$500. In the case of a second or any subsequent such violation pertaining to one
76 election cycle, he shall be assessed a civil penalty of \$500 for each such failure to file. The State Board
77 shall assess the civil penalty imposed by this subdivision and shall notify the public through the Internet
78 of the violation and identity of the violator.

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

80 In the case of a failure to file a required statement or report by the specified deadline, the length of
81 the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State
82 Board shall notify the public through the Internet of any violation based on the failure to file a required
83 report by a candidate for statewide office or the General Assembly and the identity of the violator.

84 Upon notice of a violation of this chapter by the State Board or the general registrar or local
85 electoral board, as appropriate, the attorney for the Commonwealth shall initiate civil proceedings to
86 enforce the civil penalties and penalties assessed by the State Board or the local electoral board as
87 provided herein. Any civil penalties collected pursuant to action by the State Board shall be payable to
88 the State Treasurer for deposit to the general fund; and any civil penalties collected pursuant to action
89 by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit
90 to its general fund. The statute of limitations applicable to a violation of this chapter is stated in
91 § 19.2-8. There shall be a rebuttable presumption that the violation of this chapter was willful if the
92 violation is based on a person's failure to file a report required by this chapter and his failure to file
93 continues for more than 60 days following his actual receipt of written notice of his failure to file sent
94 to him by certified mail, return receipt requested, by the State Board or an electoral board. Such notice
95 shall be sent to the most recent mailing address provided by the candidate or committee.

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

102 C. If the information required to complete the report is not filed within the 10-day period, the
103 Secretary of the State Board or the general registrar or secretary of the local electoral board, as
104 appropriate, shall then assess against the candidate and treasurer, who shall be jointly and severally
105 liable, or person or political committee required to file a report, a civil penalty not to exceed \$300. The
106 Secretary of the State Board or the general registrar or secretary of the local electoral board may grant
107 an additional period for compliance, not to exceed two weeks, to permit the completion of a filed report
108 for good cause shown and in response to a request filed within the 10-day period. However, no
109 additional period shall be granted thereafter for compliance.

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

117 E. In the case of a failure to file the report of any large pre-election contribution required by
118 § 24.2-919, or the late or incomplete filing of such a report, there shall be a rebuttable presumption that
119 the violation was willful. The provisions of subsections B and C of this section shall not apply to
120 reports required by § 24.2-919 or subsection D of § 24.2-923.

121 F. In the case of any other violation of this title that is to be enforced under this section, the
122 electoral board for the locality in which the violation occurred, if the violation was by or on behalf of a
123 candidate for local office or to influence a local ballot issue, or the State Board if the violation was by
124 or on behalf of a candidate for any other office or to influence any other ballot issue, shall determine
125 whether a violation was committed and assess the appropriate civil penalty, if any. If it appears that a
126 criminal violation has occurred, the electoral board or State Board shall not assess a penalty but shall
127 forward the complaint to the appropriate attorney for the Commonwealth.

128 G. The State Board shall determine the schedule of fines required to be followed by its staff and
129 local electoral boards in assessing penalties under this section. No election official or staff may waive or
130 reduce such fines, except as provided above.

131 [2. That an emergency exists and this act is in force from its passage.]

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