

063262448

HOUSE BILL NO. 1143

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 24.2-904 and 24.2-929 of the Code of Virginia, relating to campaign finance; filings by candidates and campaign committees; statements of organization; penalties.

Patron—Orrock

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-904 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; statements of organization; penalties.

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 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.

D. Each candidate shall file the statement of organization within 10 calendar days of meeting any one of the following conditions, whichever first occurs:

1. Acceptance of a contribution for his campaign;
2. Expenditure of any funds for his campaign;
3. Payment of a primary or other party nomination filing fee; or
4. Filing of a statement of qualification pursuant to § 24.2-501.

§ 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 \$100, unless a greater penalty is imposed as follows:

1. In the case of a failure to file or late filing of the statement of organization for a candidate required by § 24.2-904, for a committee required by § 24.2-908, or for a committee required by subsection F of § 24.2-910.1, there shall be a civil penalty not to exceed \$500. *There shall be a civil penalty of not less than \$250 and not more than \$500 for the failure to file or late filing of the statement of organization for a candidate required by § 24.2-904 in any case in which the candidate fails to file the statement of organization within 10 calendar days of filing his statement of qualification pursuant to § 24.2-501.*

2. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title that relates to the filing of an incomplete report due within the 120 days before or the 35 days after a November

INTRODUCED

HB1143

59 general election date, he shall be subject to a civil penalty not to exceed \$500.

60 3. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title, that relates to
61 the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil
62 penalty not to exceed \$500. In the case of a second or any subsequent such violation pertaining to one
63 election cycle, he shall be assessed a civil penalty of \$1,000 for each such failure to file. The State
64 Board shall assess the civil penalty imposed by this subdivision and shall notify the public through the
65 Internet of the violation and identity of the violator.

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

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

71 Upon notice of a violation of this chapter, the State Board or the general registrar or local electoral
72 board, as appropriate, shall within 90 days of the report deadline notify the attorney for the
73 Commonwealth who shall initiate civil proceedings to enforce the civil penalties and penalties assessed
74 by the State Board or the local electoral board as provided herein. Any civil penalties collected pursuant
75 to action by the State Board shall be payable to the State Treasurer for deposit to the general fund; and
76 any civil penalties collected pursuant to action by a general registrar or local electoral board shall be
77 payable to the treasurer of the locality for deposit to its general fund. The statute of limitations
78 applicable to a violation of this chapter is stated in § 19.2-8. There shall be a rebuttable presumption
79 that the violation of this chapter was willful if the violation is based on a person's failure to file a report
80 required by this chapter and his failure to file continues for more than 60 days following his actual
81 receipt of written notice of his failure to file sent to him by certified mail, return receipt requested, by
82 the State Board or an electoral board. Such notice shall be sent to the most recent mailing address
83 provided by the candidate or committee.

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

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

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

105 E. In the case of a failure to file the report of any large pre-election contribution required by
106 § 24.2-919 or a large contribution report required by § 24.2-919.1, or the late or incomplete filing of
107 either such report, there shall be a rebuttable presumption that the violation was willful. The provisions
108 of subsections B and C of this section shall not apply to reports required by § 24.2-919, 24.2-919.1 or
109 subsection D of § 24.2-923.

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

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