

LEGISLATIVE BILL 438

Approved by the Governor March 21, 2000

Introduced by Schimek, 27

AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1447, 49-1453, 49-1463.01, 49-1466, and 49-14,123, Reissue Revised Statutes of Nebraska, and sections 49-1401 and 49-1458, Revised Statutes Supplement, 1999; to provide responsibility for filings and liability for fees, penalties, and interest; to change provisions relating to committee treasurers, dissolution of committees, and late contributions; to require reports of late independent expenditures; to provide for a late filing fee and for the accrual of interest on late filing fees and civil penalties; to provide bonding requirements; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 49-1401, Revised Statutes Supplement, 1999, is amended to read:

49-1401. Sections 49-1401 to 49-14,141 and sections 3, 6, and 9 of this act shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act. Any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-1499.01 and 49-14,103.01 to 49-14,103.07. After August 25, 1989, any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-14,123.01 and 49-14,140.

Sec. 2. Section 49-1447, Reissue Revised Statutes of Nebraska, is amended to read:

49-1447. (1) The committee treasurer shall keep detailed accounts, records, bills, and receipts necessary to substantiate the information contained in a statement or report filed pursuant to sections 49-1445 to 49-1479 or rules and regulations adopted and promulgated under sections 49-1401 to 49-14,138 the Nebraska Political Accountability and Disclosure Act.

(2)(a) For any committee other than a candidate committee, the committee treasurer shall be responsible for filing all statements and reports of the committee required to be filed under the act and shall be personally liable subject to section 3 of this act for any late filing fees, civil penalties, and interest that may be due under the act as a result of a failure to make such filings.

(b) For candidate committees, the candidate shall be responsible for filing all statements and reports required to be filed by his or her candidate committee under the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act. The candidate shall be personally liable for any late filing fees, civil penalties, and interest that may be due under either act as a result of a failure to make such filings and may use funds of the candidate committee to pay such fees, penalties, and interest.

(3) The committee treasurer shall record the name and address of each person from whom a contribution is received except for contributions of fifty dollars or less received pursuant to subsection (2) of section 49-1472.

(4) The records of a committee shall be preserved for five years and shall be made available for inspection as authorized by the commission.

(5) Any person violating the provisions of this section shall be guilty of a Class III misdemeanor.

Sec. 3. A ballot question committee shall file with the commission a surety bond running in favor of the State of Nebraska with surety by a corporate bonding company authorized to do business in this state and conditioned upon the payment of all fees, penalties, and interest which may be imposed under the Nebraska Political Accountability and Disclosure Act. A bond in the amount of five thousand dollars shall be filed with the commission within thirty days after the committee receives contributions or makes expenditures in excess of one hundred thousand dollars in a calendar year, and the amount of the bond shall be increased by five thousand dollars for each additional five hundred thousand dollars received or expended in a calendar year. Proof of any required increase in the amount of the bond shall be filed with the commission within thirty days after each additional five hundred thousand dollars is received or expended. Any failure to pay late filing fees, civil penalties, or interest due under the act shall be recovered from the proceeds of the bond prior to recovery from the treasurer of the committee.

Any person violating the provisions of this section shall be guilty of a Class III misdemeanor.

Sec. 4. Section 49-1453, Reissue Revised Statutes of Nebraska, is amended to read:

49-1453. A committee may be dissolved by the filing of a statement of dissolution with the commission, the payment of all fees, penalties, and interest which may be owed, and complying with the rules and regulations of the commission for dissolution of committees. No committee shall be dissolved until such statement is filed and such payments are made. Upon the dissolution of a committee, a statement indicating dissolution shall be filed with the filing officials with whom the committee's statement of organization was filed. Dissolution of a committee shall be accomplished in accordance with rules promulgated by the commission.

Sec. 5. Section 49-1458, Revised Statutes Supplement, 1999, is amended to read:

49-1458. (1) A late contribution shall be reported by filing with the filing officer within five days after committee which receives a late contribution shall report the contribution to the commission by filing within two days after the date of its receipt the full name, street address, occupation, employer, and principal place of business of the contributor. The report shall include the amount of the contribution and the date of receipt. Filing of a report of late contributions may be by hand delivery, facsimile transmission, telegraph, express delivery service, or any other written means of communication, including electronic means approved by the commission, and need not contain an original signature. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section. If a campaign statement has not been filed, a late contribution may be reported, if practicable, in the campaign statement and need not be reported in a subsequent campaign statement.

(2) Any person or committee which fails to file a report of late contributions with the commission as required by this section shall pay to the commission a late filing fee of one hundred dollars for each day the report remains not filed not to exceed three thousand dollars or ten percent of the late contribution required to be reported, whichever is greater.

(3) For purposes of this section, late contribution means a contribution as defined in section 49-1415. As used in this section, late contribution shall mean a contribution of one thousand dollars or more received after the closing date of the last campaign statement required to be filed prior to an election for campaign statements as provided in subdivision (1)(b) of section 49-1459.

Sec. 6. (1) An independent committee, including a separate segregated political fund, which makes a late independent expenditure shall report the expenditure to the commission by filing within two days after the date of the expenditure the committee's full name and street address, the amount of the expenditure, and the date of the expenditure. The report shall include (a) the full name and street address of the recipient of the expenditure, (b) the name and office sought of the candidate whose nomination or election is supported or opposed by the expenditure, and (c) the identification of the ballot question, the qualification, passage, or defeat of which is supported or opposed. Filing of a report of a late independent expenditure may be by any written means of communication, including electronic means approved by the commission, and need not contain an original signature. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(2) A committee which fails to file a report of a late independent expenditure with the commission as required by this section shall pay to the commission a late filing fee of one hundred dollars for each day the report remains not filed not to exceed three thousand dollars or ten percent of the late independent expenditure required to be reported, whichever is greater.

(3) For purposes of this section, late independent expenditure means an independent expenditure as defined in section 49-1428 of one thousand dollars or more made after the closing date for campaign statements as provided in subdivision (1)(b) of section 49-1459.

Sec. 7. Section 49-1463.01, Reissue Revised Statutes of Nebraska, is amended to read:

49-1463.01. (1) A person required to pay a late filing fee imposed under section 32-1604.01, 49-1446.05, 49-1449, 49-1458, 49-1463, 49-1467, 49-1469, or 49-1479.01 or section 6 of this act may apply to the commission for relief. The commission by order may reduce the amount of a late filing fee imposed and waive any or all of the interest due on the fee upon a showing by such person that (1) (a) the circumstances indicate no intent to file late, (2) (b) the person has not been required to pay late filing fees for two years

prior to the time the filing was due, ~~(3)~~ (c) the late filing shows that less than five thousand dollars was raised, received, or expended during the reporting period, and ~~(4)~~ (d) a reduction of the late fees and waiver of interest would not frustrate the purposes of the Nebraska Political Accountability and Disclosure Act.

(2) A person required to pay a late filing fee imposed for failure to file a statement of exemption under subsection (2) of section 49-1459 may apply to the commission for relief. The commission by order may reduce or waive the late filing fee and waive any or all of the interest due on the fee, and the person shall not be required to make a showing as provided by subsection (1) of this section.

Sec. 8. Section 49-1466, Reissue Revised Statutes of Nebraska, is amended to read:

49-1466. Any person, who after being a candidate for office ~~terminates~~ dissolves the candidate committee as provided in section 49-1453, may transfer any unexpended funds from such ~~terminated~~ committee to another candidate committee, a political party committee, or a tax-exempt charitable institution, or may return such unexpended funds to the contributors of the funds upon ~~termination~~ dissolution of the ~~campaign~~ candidate committee.

Sec. 9. Interest shall accrue on all late filing fees and civil penalties imposed under the Nebraska Political Accountability and Disclosure Act at the rate specified in section 45-104.02, as such rate may from time to time be adjusted. The interest shall begin to accrue thirty days after the commission sends notice to the person of the assessment of the late filing fee or civil penalty. A written request filed with the commission for relief from late filing fees shall stay the accrual of interest on a late filing fee until such time as the commission grants or denies the request.

Sec. 10. Section 49-14,123, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,123. In addition to any other duties prescribed by law, the commission shall:

(1) Prescribe and publish, after notice and opportunity for public comment, rules and regulations to carry out the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act pursuant to the Administrative Procedure Act;

(2) Prescribe forms for statements and reports required to be filed pursuant to the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act and furnish such forms to persons required to file such statements and reports;

(3) Prepare and publish one or more manuals explaining the duties of all persons and other entities required to file statements and reports by the acts and setting forth recommended uniform methods of accounting and reporting for such filings;

(4) Accept and file any reasonable amount of information voluntarily supplied that exceeds the requirements of the acts;

(5) Make statements and reports filed with the commission available for public inspection and copying during regular office hours and make copying facilities available at a cost of not more than fifty cents per page;

(6) Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

(7) Prepare and publish summaries of statements and reports filed with the commission and special reports and technical studies to further the purposes of the acts;

(8) Review all statements and reports filed with the commission in order to ascertain whether any person has failed to file a required statement or has filed a deficient statement;

(9) Preserve statements and reports filed with the commission for a period of not less than five years from the date of receipt;

(10) Issue and publish advisory opinions on the requirements of the acts upon the request of a person or governmental body directly covered or affected by the acts. Any such opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person or public body who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion;

(11) Act as the primary civil and criminal enforcement agency for violations of the Nebraska Political Accountability and Disclosure Act and the rules or regulations promulgated thereunder, act as the primary civil enforcement agency for violations of the Campaign Finance Limitation Act and the rules or regulations promulgated thereunder, and act concurrently with the Attorney General in prosecuting criminal violations of the Campaign Finance

Limitation Act;

(12) Receive all late filing fees, ~~and~~ civil penalties, and interest imposed pursuant to the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act, seek the return of any amount as provided in section 32-1606, and seek the repayment of any amount as provided in section 32-1607 and remit all such funds to the State Treasurer for credit to the Campaign Finance Limitation Cash Fund; and

(13) Prepare and distribute to the appropriate local officials statements of financial interest, campaign committee organization forms, filing instructions and forms, and such other forms as the commission may deem appropriate.

Sec. 11. Original sections 49-1447, 49-1453, 49-1463.01, 49-1466, and 49-14,123, Reissue Revised Statutes of Nebraska, and sections 49-1401 and 49-1458, Revised Statutes Supplement, 1999, are repealed.