

LEGISLATIVE BILL 578

Approved by the Governor March 30, 1999

Introduced by Janssen, 15; Schimek, 27; Dw. Pedersen, 39

AN ACT relating to political accountability and disclosure; to amend sections 49-14,124 and 49-14,125, Reissue Revised Statutes of Nebraska; to change provisions relating to investigation and prosecution of violations of the Nebraska Political Accountability and Disclosure Act and the Campaign Finance Limitation Act; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 49-14,124, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,124. Upon a complaint signed under oath by any person which contains sufficient information to indicate that there is at least a reasonable belief that a violation has occurred, upon the recommendation of the executive director, or upon its own motion, the commission shall, by way of preliminary investigation, investigate any alleged violation of the Nebraska Political Accountability and Disclosure Act or any rule or regulation adopted and promulgated thereunder. Upon the recommendation of the executive director or upon its own motion, the commission shall, by way of preliminary investigation, investigate any alleged violation of the Campaign Finance Limitation Act or any rule or regulation promulgated thereunder. Each governmental body shall cooperate with the commission in the conduct of its investigations. All commission proceedings and records relating to preliminary investigations shall be confidential until a final determination is made by the commission unless the person alleged to be in violation of the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act requests that the proceedings be public. The executive director shall notify any person under investigation by the commission of the investigation and of the nature of the alleged violation within five days after the commencement of the investigation. Within fifteen days after the filing of a sworn complaint by a person alleging a violation, and every thirty days thereafter until the matter is terminated, the executive director shall notify the complainant and the alleged violator of the action taken to date by the commission together with the reasons for such action or for nonaction.

Sec. 2. Section 49-14,125, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,125. (1) If, after a preliminary investigation, it is determined by a majority vote of the commission that there is no ~~fails to~~ ~~indicate~~ probable cause for belief that a person has violated the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act ~~has been violated~~ or any rule or regulation adopted and promulgated thereunder or if the commission determines that there is insufficient evidence to reasonably believe that the person could be found to have violated either act, the commission shall terminate the investigation and so notify the complainant and the person who had been under investigation.

(2) If, after a preliminary investigation, it is determined by a majority vote of the commission that there is probable cause for belief that the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act or a rule or regulation adopted and promulgated thereunder has been violated and if the commission determines that there is sufficient evidence to reasonably believe that the person could be found to have violated either act, the commission shall initiate appropriate proceedings to determine whether there has in fact been a violation. All proceedings of the commission pursuant to this subsection shall be by closed session attended only by those persons necessary to the investigation of the alleged violation, unless the person alleged to be in violation of either act or any rule or regulation adopted and promulgated thereunder requests an open session. The commission shall have the powers possessed by the courts of this state to issue subpoenas and cause them to be served and enforced. All testimony shall be under oath which shall be administered by a member of the commission. Any person who appears before the commission shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state. All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the district court. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby shall be notified and may

appear personally before the commission on that person's own behalf or file a written statement for incorporation into the record of the proceeding. The commission shall cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members present whether there has been a violation of the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act. If the commission determines that there was no violation of either act or any rule or regulation, the records and actions relative to the investigation and determination shall remain confidential unless the alleged violator requests that the records and actions be made public. If the commission determines that there was a violation, the records and actions shall be made public as soon as practicable after the determination is made.

Sec. 3. Original sections 49-14,124 and 49-14,125, Reissue Revised Statutes of Nebraska, are repealed.