

1 HB259
2 203942-1
3 By Representative Chestnut
4 RFD: County and Municipal Government
5 First Read: 18-FEB-20

SYNOPSIS: Under existing law, the Secretary of State or a judge of probate may levy civil penalties for improperly reporting under the Fair Campaign Practices Act. Proceeds from civil penalties levied by the Secretary of State are distributed to the State General Fund.

This bill would require the proceeds from civil penalties paid to the State General Fund for campaign finance violations to be used to provide grants to county probate courts or county commissions to digitize recorded documents.

A BILL
TO BE ENTITLED
AN ACT

Relating to campaign finance civil penalties; to amend Section 17-5-19.1, Code of Alabama 1975, to require the proceeds from civil penalties paid to the State General Fund for campaign finance violations to be used to provide grants

1 to county probate courts or county commissions to digitize
2 recorded documents.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 17-5-19.1, Code of Alabama 1975,
5 is amended to read as follows:

6 "§17-5-19.1.

7 "(a) Commencing with the 2018 election cycle, the
8 appropriate election official, based on the location of filing
9 as required by Section 17-5-9, shall levy an administrative
10 penalty against any person who fails to timely file a report
11 required by this chapter and who does not remedy the filing of
12 the report pursuant to subsection (h). The State Ethics
13 Commission shall have the authority to levy an administrative
14 penalty against any person who files a materially inaccurate
15 report required by this chapter and who does not remedy the
16 filing of the report pursuant to subsection (g).

17 "(b) The schedule of civil penalties shall be as
18 follows:

19 "(1) The lesser of three hundred dollars (\$300) or
20 10 percent of the amount of contributions or expenditures not
21 properly reported for a first offense in an election cycle.

22 "(2) The lesser of six hundred dollars (\$600) or 15
23 percent of the amount of contributions or expenditures not
24 properly reported for a second offense in an election cycle.

25 "(3) The lesser of one thousand two hundred dollars
26 (\$1,200) or 20 percent of the amount of contributions or

1 expenditures not properly reported for a third or subsequent
2 offense in an election cycle.

3 "(c) A fourth failure to timely or accurately file a
4 report in an election cycle shall create a rebuttable
5 presumption of intent to violate the reporting requirements of
6 this chapter. The Secretary of State or judge of probate, as
7 appropriate based on the location of filing, shall notify the
8 Attorney General and the appropriate district attorney of all
9 persons who violate the filing requirements four or more times
10 in an election cycle.

11 "(d) Upon imposition of a civil penalty pursuant to
12 this section, the appropriate filing official shall send the
13 person upon whom the penalty is being imposed proper
14 notification by certified mail of the imposition of the
15 penalty. If an electronic mail address is on file with the
16 Secretary of State, the Secretary of State shall also provide
17 such notification by electronic mail.

18 "(e) Civil penalties levied shall be paid to the
19 appropriate filing official within 45 days of the finality of
20 any review. The Secretary of State or judge of probate,
21 through his or her attorney, may institute proceedings to
22 recover any penalties ordered pursuant to this section that
23 are not paid by, or on behalf of, the person against whom they
24 are levied and may collect necessary fees and costs associated
25 with the collection action.

26 "(f) All penalties collected by a judge of probate
27 shall be distributed to that county's general fund, and all

1 penalties collected by the Secretary of State shall be
2 distributed to the State General Fund. Notwithstanding any
3 distribution formula contemplated by Article 8, commencing
4 with Section 29-2-120, of Chapter 2 of Title 29, penalties
5 paid to the State General Fund pursuant to this subsection
6 shall be allocated to the State Executive Commission on
7 Community Services Grants. These funds shall be used to
8 provide grants, as recommended by the Joint Legislative
9 Advisory Committee on Community Service Grants, to county
10 probate courts or county commissions for the preservation of
11 their recorded documents and the placement of the recorded
12 documents on a searchable electronic database on the Internet
13 for public access.

14 "(g) A person who voluntarily files an amended
15 report to correct an error in an otherwise timely filed report
16 without being prompted by a filing official shall not have
17 committed an offense or be subjected to a civil penalty under
18 this section, so long as, in the case of a candidate, the
19 corrected report is filed prior to the election at issue, and
20 so long as, in the case of a political action committee, the
21 corrected report is filed prior to the close of the calendar
22 year.

23 "(h) Failure to file a timely report shall not be
24 considered an offense or subjected to a civil penalty pursuant
25 to subsection (a) so long as it is the first failure by that
26 candidate or political action committee for the election cycle

1 and the report is filed within 48 hours of the time it was
2 due.

3 "(i) Any penalties assessed pursuant to this section
4 may be paid with campaign funds.

5 Section 2. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.