

SENATE BILL 759

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CF 0lr3560

By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Disclosure of Contributions by Persons Doing Public Business –**
3 **Enforcement**

4 FOR the purpose of altering the manner in which the State Board of Elections is authorized
5 to impose fees for the late filing of certain statements of contributions by persons
6 doing public business; requiring certain persons who violate certain provisions of law
7 requiring disclosure of contributions by persons doing public business to pay a civil
8 penalty in accordance with certain provisions of this Act; prohibiting a certain
9 penalty from exceeding a certain amount; providing that a certain infraction is a civil
10 offense; authorizing certain persons to issue a civil citation in a certain manner
11 under certain circumstances; requiring the prosecuting authority to file a certain
12 citation in the District Court; requiring that the citation be served in accordance with
13 certain rules; requiring the District Court to schedule a case for trial and make a
14 certain notification under certain circumstances; requiring that the trial be
15 conducted in a certain manner; requiring the District Court to distribute certain fees
16 to a certain fund; providing that a certain violation is not a criminal conviction;
17 providing that a certain person is liable for certain costs; authorizing the District
18 Court to take certain actions at the request of the prosecutor if a person served with
19 a citation fails to appear for trial; requiring certain penalties to be distributed to the
20 Fair Campaign Financing Fund; increasing the maximum amount of a certain fine
21 for certain violations of certain provisions of law requiring disclosure of contributions
22 by persons doing public business; prohibiting a person from making a certain
23 statement under oath in certain filings required under certain provisions of law
24 requiring disclosure of contributions by persons doing public business; prohibiting a
25 person from making an electronic submission of a certain statement or document on
26 behalf of another person without that person's express consent; providing that a
27 person who violates certain provisions of this Act is guilty of perjury and subject to
28 a certain penalty; and generally relating to the enforcement of provisions of law
29 requiring disclosure of contributions by persons doing public business.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Election Law

Section 14–104

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Election Law

Section 14–107

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

BY adding to

Article – Election Law

Section 14–107.1 and 14–107.2

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Election Law

14–104.

(a) A person doing public business shall file a statement with the State Board as provided in this section.

(b) (1) When a contract is awarded that causes a person to be doing public business, an initial statement shall be filed at that time, covering the preceding 24 months.

(2) (i) A person who files an initial statement under paragraph (1) of this subsection, a person who was doing public business on December 31, 2014, or a person who has obtained approval from the State Board under subsection (c)(2) of this section, shall file a semi-annual statement in accordance with this paragraph for each reporting period specified in subparagraph (ii) of this paragraph if performance remains uncompleted on the contract that caused the person to be doing public business.

(ii) 1. The statements required by subparagraph (i) of this paragraph shall cover 6-month reporting periods ending on April 30 or October 31.

2. A statement required by subparagraph (i) of this paragraph shall be filed on or before the last day of the month immediately following the day on which the reporting period ends.

(c) (1) The statement required by this section shall be made under oath and, except as provided in paragraph (2) or (3) of this subsection, shall contain:

(i) the name of each candidate, if any, to whom one or more applicable contributions in a cumulative amount of \$500 or more were made during the reporting period;

(ii) the office sought by each candidate named in item (i) of this paragraph;

(iii) the amount of aggregate contributions made to each candidate named in item (i) of this paragraph;

(iv) the name of each unit of a governmental entity with which the person did public business during the reporting period;

(v) the nature and amount of public business done with each unit of a governmental entity; and

(vi) if the public business was done or the contribution was made by another person but is attributed to the person filing the statement, the name of the person who did the public business or made the contribution and the relationship of that person to the person filing the statement.

(2) (i) The information required by paragraph (1)(iv) and (v) of this subsection may be omitted on the written approval of the State Board if the State Board finds that:

1. requiring the information would be unduly burdensome;

2. the public interest would not be impaired substantially by the omission of this information; and

3. the person filing the statement stipulates that the person has done public business during the reporting period.

(ii) A person who has obtained approval from the State Board under this paragraph:

1. is not required to file an initial statement under subsection (b)(1) of this section;

2. shall file the statements required under subsection (b)(2) of this section if performance remains uncompleted on any contract that causes the person to be doing public business; and

3. shall include in each statement the information required under paragraph (1)(i), (ii), (iii), and (vi) of this subsection for all contributions by the person or attributed to the person in a cumulative amount of \$500 or more to or for the benefit of a candidate for an office of any governmental entity.

(3) If a person doing public business did not make applicable contributions in a cumulative amount of \$500 or more to a candidate during the reporting period, the statement filed by the person under this section is required to contain only the following:

(i) the name of each unit of a governmental entity with which the person did public business during the reporting period, unless the person has obtained approval from the State Board under paragraph (2) of this subsection to omit this information; and

(ii) a stipulation that the person did not make applicable contributions in a cumulative amount of \$500 or more to a candidate during the reporting period.

(d) The State Board shall retain each statement filed under this title as a public record for at least 2 years after its receipt and shall make the statement publicly available on the Internet.

(e) A person shall file a statement required under this section in an electronic format required by the State Board.

14–107.

(a) (1) A governmental entity that has awarded a person a contract that causes the person to be doing public business shall:

(i) require the person to certify that the person has filed the statement required under § 14–104(b)(1) of this title; and

(ii) provide the State Board with the person's name, address, and any other contact information required by the State Board.

(2) (i) A governmental entity may comply with paragraph (1)(ii) of this subsection by sending to the State Board a quarterly report on a form provided by the State Board.

(ii) A quarterly report sent under subparagraph (i) of this paragraph shall:

1. include the required information for any person that was awarded a contract that caused the person to be doing public business with the governmental entity during the preceding calendar quarter; and

2. be submitted to the State Board no later than 10 business days after the close of each calendar quarter.

(b) (1) If a person files a statement under § 14–104 of this title that does not

1 include all the information required, the State Board shall notify the person in writing of
2 the particular deficiencies.

3 (2) Within 30 days after service of the notice under paragraph (1) of this
4 subsection, the person shall file an amended statement that includes all the information
5 required.

6 (c) (1) As provided in this subsection, the State Board may impose fees for late
7 filing of:

8 (i) a statement required under § 14–104 of this title; or

9 (ii) an amended statement required under subsection (b) of this
10 section.

11 (2) The State Board may impose late filing fees in the same amounts and
12 in the same manner as provided under [§ 13–331(a) and (b)] **§§ 13–331(A), (B), AND (C),**
13 **13–335, AND 13–337** of this article for late filing of campaign finance reports.

14 (3) Late filing fees imposed under this subsection shall be distributed to
15 the Fair Campaign Financing Fund established under § 15–103 of this article.

16 [(d) A person who knowingly and willfully violates this title is guilty of a
17 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment
18 not exceeding 1 year or both.

19 (e) An officer or partner of a business entity who knowingly authorizes or
20 participates in a violation of this title by the business entity is subject to the penalty
21 provided in subsection (d) of this section.]

22 **14–107.1.**

23 (A) (1) A PERSON WHO VIOLATES A PROVISION OF THIS TITLE WITHOUT
24 KNOWING THE ACT IS ILLEGAL SHALL PAY A CIVIL PENALTY IN ACCORDANCE WITH
25 SUBSECTIONS (B) THROUGH (G) OF THIS SECTION.

26 (2) THE PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED
27 \$10,000.

28 (3) AN INFRACTION DESCRIBED IN PARAGRAPH (1) OF THIS
29 SUBSECTION IS A CIVIL OFFENSE.

30 (B) (1) IF THE STATE PROSECUTOR OR THE STATE'S ATTORNEY WITH
31 JURISDICTION DETERMINES THAT A PERSON UNINTENTIONALLY, AND WITHOUT
32 CRIMINAL INTENT, HAS VIOLATED A PROVISION OF THIS TITLE, THE STATE

PROSECUTOR, THE STATE’S ATTORNEY, OR BOTH, SHALL ISSUE TO THE PERSON A CIVIL CITATION THAT CONTAINS:

(I) THE NAME AND ADDRESS OF THE PERSON CITED;

(II) THE NATURE, TIME, AND PLACE OF THE VIOLATION;

(III) THE MANNER IN WHICH THE VIOLATION OCCURRED;

(IV) THE MAXIMUM PENALTY FOR THE VIOLATION;

(V) THE MANNER AND TIME IN WHICH TO PAY THE PENALTY;

(VI) WHERE TO PAY THE PENALTY; AND

(VII) A STATEMENT THAT THE PERSON RECEIVING THE CITATION HAS A RIGHT TO A TRIAL IN THE DISTRICT COURT.

(2) THE PROSECUTING AUTHORITY WHO ISSUES A CITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FILE THE CITATION IN THE DISTRICT COURT.

(C) THE CITATION SHALL BE SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

(D) (1) ON RECEIPT OF THE RETURN OF SERVICE, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE PERSON NAMED IN THE CITATION OF THE TRIAL DATE.

(2) THE TRIAL IN THE DISTRICT COURT SHALL BE CONDUCTED IN THE SAME MANNER AS SET FORTH FOR MUNICIPAL INFRACTIONS UNDER §§ 6–108, 6–109, AND 6–111 THROUGH 6–115 OF THE LOCAL GOVERNMENT ARTICLE.

(3) THE DISTRICT COURT SHALL DISTRIBUTE ALL LATE FEES COLLECTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15–103 OF THIS ARTICLE.

(4) AN ADJUDICATION OF A VIOLATION UNDER THIS SUBSECTION:

(I) IS NOT A CRIMINAL CONVICTION; AND

(II) DOES NOT CARRY WITH IT ANY OF THE CIVIL DISABILITIES THAT ARISE FROM A CRIMINAL CONVICTION.

1 (E) A PERSON WHO IS ADJUDICATED IN VIOLATION AS SET FORTH IN A
2 CITATION ISSUED UNDER SUBSECTION (B) OF THIS SECTION IS LIABLE FOR THE
3 COST OF THE DISTRICT COURT PROCEEDINGS.

4 (F) IF A PERSON WHO HAS BEEN SERVED WITH A CITATION FAILS TO APPEAR
5 FOR TRIAL, THE COURT, AT THE REQUEST OF THE PROSECUTOR, MAY DISMISS THE
6 CITATION OR ENTER A CIVIL JUDGMENT AGAINST THE PERSON:

7 (1) IN FAVOR OF THE STATE BOARD;

8 (2) IN ACCORDANCE WITH THE MARYLAND RULES; AND

9 (3) IN AN AMOUNT NOT EXCEEDING THE MAXIMUM FINE SET FORTH
10 IN SUBSECTION (A) OF THIS SECTION AND ANY LATE FEES OWED TO THE STATE
11 BOARD.

12 (G) A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE
13 DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §
14 15-103 OF THIS ARTICLE.

15 14-107.2.

16 (A) A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS TITLE IS
17 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
18 EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

19 (B) AN OFFICER OR A PARTNER OF A BUSINESS ENTITY WHO KNOWINGLY
20 AUTHORIZES OR PARTICIPATES IN A VIOLATION OF THIS TITLE BY THE BUSINESS
21 ENTITY IS SUBJECT TO THE PENALTY PROVIDED IN SUBSECTION (A) OF THIS
22 SECTION.

23 (C) (1) A PERSON MAY NOT WILLFULLY MAKE A FALSE, FRAUDULENT, OR
24 MISLEADING STATEMENT OR ENTRY IN ANY FILING THAT IS UNDER OATH AND IS
25 REQUIRED BY THIS TITLE.

26 (2) A PERSON MAY NOT MAKE AN ELECTRONIC SUBMISSION OF A
27 STATEMENT REQUIRED UNDER § 14-104 OF THIS TITLE OR ANY OTHER DOCUMENT
28 REQUIRED BY THIS TITLE ON BEHALF OF ANOTHER PERSON WITHOUT THAT
29 PERSON'S EXPRESS CONSENT.

30 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF
31 PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED UNDER THE

1 **CRIMINAL LAW ARTICLE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
3 1, 2020.