

HOUSE BILL NO. 398

INTRODUCED BY J. TAYLOR

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE AUTHORITY OF THE COMMISSIONER OF POLITICAL PRACTICES TO ENFORCE LOBBYING, CAMPAIGN PRACTICES, AND CAMPAIGN FINANCE LAWS ADMINISTERED BY THE COMMISSIONER OF POLITICAL PRACTICES; PROVIDING NEW CIVIL PENALTIES; PROVIDING A HEARING PROCESS; PROVIDING FOR THE COLLECTION AND DISPOSITION OF PENALTIES; AND AMENDING SECTIONS 13-35-225 AND 13-37-226, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Civil penalties for certain violations -- option for hearing -- suspension of penalty -- collection and disposition of penalty amounts. (1) In addition to any other penalties or remedies established by law:

(a) a person whose election materials violate a provision of 13-35-225 is subject to a civil penalty of \$100 for each instance, as defined by rule, that the election material is not corrected or withdrawn from circulation after an order of noncompliance has been issued under 13-35-225(6) up to a maximum penalty of \$2,500; and

(b) a person who fails to file a report within the time required in 13-37-226 is subject to a civil penalty of \$50 for each working day that the report is late until the report is filed up to a maximum penalty of \$2,500 for each late report.

(2) (a) A person against whom a civil penalty is imposed pursuant to this section may request a hearing before the commissioner within 10 days of receiving a notice from the commissioner of imposition of a civil penalty under this section. Upon receipt of a timely request, the commissioner shall hold an informal contested case hearing under the provisions of Title 2, chapter 4, part 6.

(b) If a daily penalty has been imposed pursuant to subsection (1)(b), upon the filing of a timely request for a hearing, the imposition of the daily penalty must be suspended until the commissioner issues a decision.

(c) At the hearing, the commissioner shall consider any mitigating factors or circumstances and may reduce or waive the civil penalty.

(3) (a) Penalties not paid in a timely manner are subject to collection pursuant to Title 17, chapter 4, part 1.

1 (b) Subject to 17-4-106, the penalties paid pursuant to this section must be deposited to the general fund.

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3 **Section 2.** Section 13-35-225, MCA, is amended to read:

4 **"13-35-225. Election materials not to be anonymous -- statement of accuracy -- order of**

5 **noncompliance -- penalty applies.** (1) All communications advocating the success or defeat of a candidate,

6 political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility,

7 direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must

8 clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person

9 who made or financed the expenditure for the communication. When a candidate or a candidate's campaign

10 finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's

11 campaign. In the case of a political committee, the attribution must be the name of the committee, the name of

12 the committee treasurer, and the address of the committee or the committee treasurer.

13 (2) Communications in a partisan election financed by a candidate or a political committee organized

14 on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

15 (3) (a) Printed election material described in subsection (1) that includes information about another

16 candidate's voting record must include:

17 (i) a reference to the particular vote or votes upon which the information is based;

18 (ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if

19 closely related in time; and

20 (iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the

21 statements made about the other candidate's voting record are accurate and true.

22 (b) The statement required under subsection (3)(a) must be signed:

23 (i) by the candidate if the election material was prepared for the candidate or the candidate's political

24 committee and includes information about another candidate's voting record; or

25 (ii) by the person financing the communication or the person's legal agent if the election material was not

26 prepared for a candidate or a candidate's political committee.

27 (4) If a document or other article of advertising is too small for the requirements of subsections (1)

28 through (3) to be conveniently included, the candidate responsible for the material or the person financing the

29 communication shall file a copy of the article with the commissioner of political practices, together with the

30 required information or statement, at the time of its public distribution.

1 (5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or
 2 notification about the omission, the candidate responsible for the material or the person financing the
 3 communication shall:

4 (a) file notification of the omission with the commissioner of political practices within 5 days of the
 5 discovery or notification;

6 (b) bring the material into compliance with subsections (1) through (3); and

7 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

8 (6) If the commissioner determines that election material does not comply with the provisions of this
 9 section and that the person responsible for the material has been notified and has had reasonable opportunity
 10 to bring the material into compliance or withdraw the materials as required in subsection (5), the commissioner
 11 may issue an order of noncompliance and notify the person that the penalties and provisions of [section 1] apply
 12 from the date the order of noncompliance is issued under this subsection."

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14 **Section 3.** Section 13-37-226, MCA, is amended to read:

15 **"13-37-226. Time for filing reports -- order of noncompliance -- penalty applies.** (1) Candidates for
 16 a state office filled by a statewide vote of all the electors of Montana and political committees that are organized
 17 to support or oppose a particular statewide candidate shall file reports:

18 (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in
 19 which funds are received or expended during the year or years prior to the election year that the candidate
 20 expects to be on the ballot;

21 (b) on the 10th day of March and September in each year that an election is to be held and on the 15th
 22 and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution
 23 of \$200 or more if received between the 10th day before the election and the day of the election;

24 (c) not more than 20 days after the date of the election; and

25 (d) on the 10th day of March and September of each year following an election until the candidate or
 26 political committee files a closing report as specified in 13-37-228(3).

27 (2) Political committees organized to support or oppose a particular statewide ballot issue shall file
 28 reports:

29 (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in
 30 which the text of the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the

- 1 year or years prior to the election year that an issue is or is expected to be on the ballot;
- 2 (b) on the 10th day of March and on the 10th day of each subsequent month through September;
- 3 (c) on the 15th and 5th days preceding the date on which an election is held;
- 4 (d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before
- 5 the election and the day of the election;
- 6 (e) within 20 days after the election; and
- 7 (f) on the 10th day of March and September of each year following an election until the political
- 8 committee files a closing report as specified in 13-37-228(3).
- 9 (3) Candidates for a state district office, including but not limited to candidates for the legislature, the
- 10 public service commission, or a district court judge, and political committees that are specifically organized to
- 11 support or oppose a particular state district candidate or issue shall file reports:
- 12 (a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving
- 13 a contribution of \$100 or more if received between the 17th day before the election and the day of the election.
- 14 The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and
- 15 recorder and the commissioner of political practices.
- 16 (b) not more than 20 days after the date of the election; and
- 17 (c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).
- 18 (4) Candidates for any other public office and political committees that are specifically organized to
- 19 support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount
- 20 of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing
- 21 fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.
- 22 (5) For the purposes of this subsection, a committee that is not specifically organized to support or
- 23 oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in
- 24 conjunction with an election is an independent committee. For the purpose of reporting, a political party committee
- 25 is an independent committee. An independent committee shall file:
- 26 (a) a report on the 12th day preceding the date of an election in which it participates by making an
- 27 expenditure;
- 28 (b) a report not more than 20 days after the date of the election in which it participates by making an
- 29 expenditure; and
- 30 (c) a report on a date to be prescribed by the commissioner for a closing report at the close of each

1 calendar year.

2 (6) The commissioner may promulgate rules regarding the extent to which organizations that are
3 incidental political committees shall report their politically related activities in accordance with this chapter.

4 (7) All reports required by this section must be complete as of the fifth day before the date of filing as
5 specified in 13-37-228(2) and this section.

6 (8) The commissioner may issue an order of noncompliance to any candidate or committee that fails to
7 meet an applicable filing deadline. The order must include notice that the penalties and provisions of [section 1]
8 apply from the date the order of noncompliance is issued under this subsection."

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10 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [section 1].

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