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HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 167

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8040, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8040. Certificates of election; candidacy requirement for future elections.

(a) No certificate of election shall be granted to any candidate until the Superior Court has certified that such candidate has caused to be filed all reports required by § 8030 of this title to be filed prior to the election and has paid all fines assessed by the Commissioner under § 8044 of this title. The Commissioner shall certify to the Superior Court whether each candidate has caused to be filed all reports required by § 8030 of this title to be filed prior to the election and has paid all fines assessed by the Commissioner under § 8044 of this title.

(b) No individual may be a candidate in a subsequent election until the individual or the treasurer has, for all prior elections in which the individual was a candidate, cause to be filed all reports required by § 8030 of this title and paid all fines assessed by the Commissioner under § 8044 of this title.

Section 2. Amend § 8044, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8044 Tardy and incomplete reports.

(a) Any reporting party who fails to file or deliver to the Commissioner any report required under this chapter shall be assessed a fine by the Commissioner of \$50 for each day that such report is tardy in delivery to the Commissioner. In the event any report required under this chapter shall be incomplete, such report shall be deemed tardy for purposes of this section. Notwithstanding the foregoing, a reporting party shall be entitled to an automatic, 1-time 24-hour extension hereunder, provided such party notifies the Commissioner in writing thereof no later than 11:59 p.m. on the date such report is due.

(b) In the event a report is incomplete or otherwise tardy, the Commissioner shall immediately, within 1 business day, notify the reporting party thereof in writing. Such notice shall state that a fine is being assessed for each late day, and

to the extent applicable, shall also specify why such report is incomplete. Upon receipt of such notice, the reporting party shall have ~~30 days~~ 15 days to appeal such fine in writing to the Commissioner. In the event of an appeal, the reporting party shall have the opportunity to show the Commissioner that such tardiness is due to reasonable cause and not wilful neglect. If the Commissioner determines that such tardiness is not due to reasonable cause, or the reporting party fails to timely file an appeal, such fine shall constitute a debt due and owing the State, assessable by the Commissioner and recoverable against the reporting party.

(c) ~~If a tardy report~~ The Commissioner shall notify the Office of the Attorney General that the reporting party has failed to file a tardy report due under this chapter if the report is not filed or corrected within 30 days of one of the following:

(1) A determination by the Commissioner that such tardiness is not due to reasonable ~~cause~~; or cause.

(2) The expiration of the appeal period set forth in subsection (b) of this ~~section~~; section.

~~then the Commissioner shall notify the Office of the Attorney General that the reporting party has failed to file such report.~~

(d) The Commissioner shall publish on the Department of Elections website the name of any candidate who the Commissioner has determined has, by wilful neglect, failed to file a report due under this chapter; who the Commissioner has assessed a fine against for wilfully neglecting to file a report due under this chapter; or who the Commissioner has reported to the Office of the Attorney General based on subsection (c) of this section. If the Commissioner has assessed a fine against a candidate for failure to file a report due under this chapter, the Commissioner shall publish on the Department of Elections website the amount of the fine, in addition to the candidate's name.

SYNOPSIS

This Act improves the enforcement mechanisms related to Delaware's campaign finance disclosure laws in four ways.

First, this Act amends § 8040, Title 15 to require that the Superior Court may not grant a certificate of election to a successful candidate for office until the candidate has paid all fines assessed by the Commissioner of Elections ("Commissioner") for the candidate's wilful failure to file a required campaign finance report. And, this Act specifically requires the Commissioner to provide the Superior Court with the information necessary for the Court to perform its function.

Second, this Act further amends § 8040, Title 15 to prohibit an individual from being a candidate in a future election until all previous campaign finance reports are filed and all previously assessed fines assessed by the Commissioner are paid.

Third, this Act clarifies the timeframe in which the Commissioner must notify a candidate that a report is incomplete or tardy and decreases the time in which a candidate may appeal the Commissioner's decision to issue a fine for a tardy or incomplete report.

Fourth, this Act amends § 8044, Title 15 to require the Commissioner to publish, on the Department of Elections website, the name of any candidate who has (1) wilfully neglected to file a campaign finance report, (2) been assessed a fine by the Commissioner for wilfully neglecting to file a campaign finance report, or (3) been reported to the Office of the Attorney General by the Commissioner.

Additionally, this Act amends § 8044(c), Title 15 in keeping with the style and formatting guidelines of the *Delaware Legislative Drafting Manual*.