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Michael Smith; Sens. S. McBride, Sturgeon, Townsend

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 366

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

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

1 Section 1. Amend Chapter 80 of Title 15 of the Delaware Code by making deletions as shown by strike through
2 and insertions as shown by underline as follows:

3 §8030. Reports of political committees.

4 (d) Each report under this section shall disclose all of the following information, for the entire reporting period:

5 (1) Amount of cash and other intangible and tangible assets on hand at the beginning of the reporting ~~period;~~
6 period.

7 (2) Full ~~name and mailing address~~ name, mailing address, and primary employer name and job title of each
8 person who has made contributions to such political committee (including the purchase of tickets for events such as
9 dinners, luncheons, rallies and similar fund-raising events, whether or not the tickets were used by the person who paid
10 for them) during the election period in an aggregate amount or value in excess of \$100, the total of all contributions
11 from such person during the election period, and the amount and date of all contributions from such person during the
12 reporting period. If the person who made the contribution is not an individual, then the report shall also include the
13 name and address of 1 responsible party for such ~~person;~~ person.

14 § 8032. Public disclosure.

15 (a) All reports made to the Commissioner and all rulings made by the Commissioner under this chapter shall be
16 public and shall, immediately upon their filing, be made available by the office of the Commissioner for inspection and
17 copying at reasonable cost by the public, except that the identity of the candidate or committee which requested a ruling
18 shall not be disclosed without the candidate's or committee's consent. The Office of the Election Commissioner shall
19 remain open beyond the ordinary close of business on the day the reports are due to be received under § 8030(c) of this
20 title, until all persons who are present at said office at the time of the ordinary close of business have had an opportunity to
21 make reasonable inspection and copying of said reports.

22 (b) Any contributor who is a law-enforcement officer as defined by § 222 or § 2401 of Title 11, a probation and
23 parole officer, or a federal or state judicial officer may request that the Commissioner remove that officer’s mailing address
24 from any report to the Commissioner before the report is publicly disclosed. Any other person, upon application to the
25 board of elections for the county in which that person resides, may request that the person’s mailing address be removed
26 from any report to the Commissioner before the report is publicly disclosed. After considering the application, if the board
27 of elections determines that good cause exists, it shall approve the removal of the person’s mailing address by the
28 Commissioner before the report is publicly disclosed.

29 (c) The Department shall have 60 days from filing to review all reports of contributions and expenditures listed in
30 §8030 of this title to confirm that there are no violations of this title.

31 (1) After the report required in §8030 is filed with the Department it shall be published on the Department’s
32 website and clearly marked as “Submitted But Not Reviewed.”

33 (2) If the Department finds no violations in the report, the report shall be clearly marked as “Reviewed and
34 Final.”

35 (3) If any violations are discovered, the Department shall work with the candidate to rectify the violation,
36 under the Department’s rules and regulations. Once the violations are corrected and the candidate submits an amended
37 report that does not include any violations, the report’s status shall be updated on the Department’s website and clearly
38 marked as “Reviewed and Final.”

39 (4) This subsection applies to all reports of contributions and expenditures listed in §8030 of this title
40 submitted after February 1, 2023.

41 § 8033. Reporting Campaign Violations.

42 (a) The Department shall establish a telephone number and online form for the reporting of any suspected
43 violations under this chapter.

44 (b) A person reporting a suspected violation under subsection (a) of this section is not required to provide their
45 name or contact information to the Department.

46 § 8043. Violations; penalties; jurisdiction in Superior Court

47 ~~(h) A reporting party who receives a prohibited contribution or makes a prohibited expenditure without any~~
48 ~~intention to violate this chapter, but who returns the contribution or reimburses the political committee or other person~~
49 ~~making expenditure within 7 days after learning that the contribution or expenditure was prohibited, shall not be liable for~~
50 ~~any violation of this chapter. A reporting party may also donate a prohibited or suspected prohibited contribution to any~~
51 ~~charitable organization listed in subchapter IX, Chapter 11 of Title 30.~~

52 (h) A reporting party who receives a prohibited contribution or makes a prohibited expenditure without any
53 intention to violate this chapter may do either of the following within 7 days after learning that the contribution or
54 expenditure was prohibited and not be in violation of this chapter:

55 (1) Return the contribution or reimburse the political committee or other person making the expenditure.

56 (2) Pay the contribution to the State Treasurer for deposit in the General Fund.

57 (i) Any person who accepts an unlawful contribution from a person or entity with knowledge that it is a prohibited
58 contribution under this title must pay the full amount of the unlawful contribution to the State Treasurer for deposit in the
59 General Fund.

60 (i) (j) A reporting party who violates § 8021 of this title shall be assessed a fine by the Commissioner of \$500 or
61 25% of the cost of the campaign advertisement subject thereto, whichever is greater.

62 Section 2. This Act will take effect on February 1, 2023.

SYNOPSIS

This Act requires a candidate's political committee's contribution and expense report, provided to the Department of Elections, to include the primary employer and job title of each person contributing to the committee. The Act requires the Department to review every committee report for any contribution or expense violation and to note the report, on the Department's website, as either "submitted but not reviewed" or "reviewed and final". The Act also requires the Department of Elections to provide a telephone number and online form for reporting alleged campaign financing violations with an option for the informant to provide their contact information to the Department. This Act also allows reporting parties who unintentionally receive or make a prohibited contribution to return or reimburse the contribution or pay the contribution to the State Treasurer. The Act also eliminates the ability of anyone who makes or accepts a prohibited campaign contribution from donating the money to a designated Title 30 charitable organization. The Act requires anyone who knowingly accepts an unlawful campaign contribution to pay the money to the State Treasurer for deposit to the General Fund. This Act also makes technical changes to conform existing law to the standards of the Delaware Legislative Drafting Manual.