

SENATE BILL 759

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CF HB 951

By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: March 2, 2020

CHAPTER _____

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 behalf of another person without that person's express consent; providing that a
2 person who violates certain provisions of this Act is guilty of perjury and subject to
3 a certain penalty; and generally relating to the enforcement of provisions of law
4 requiring disclosure of contributions by persons doing public business.

5 BY repealing and reenacting, without amendments,
6 Article – Election Law
7 Section 14–104
8 Annotated Code of Maryland
9 (2017 Replacement Volume and 2019 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Election Law
12 Section 14–107
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2019 Supplement)

15 BY adding to
16 Article – Election Law
17 Section 14–107.1 and 14–107.2
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2019 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Election Law**

23 14–104.

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

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

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

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

36 2. A statement required by subparagraph (i) of this

1 paragraph shall be filed on or before the last day of the month immediately following the
2 day on which the reporting period ends.

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

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

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

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

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

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

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

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

23 1. requiring the information would be unduly burdensome;

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

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

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

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

32 2. shall file the statements required under subsection (b)(2)
33 of this section if performance remains uncompleted on any contract that causes the person

1 to be doing public business; and

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

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

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

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

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

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

21 14–107.

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

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

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

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

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

33 1. include the required information for any person that was
34 awarded a contract that caused the person to be doing public business with the

1 governmental entity during the preceding calendar quarter; and

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

4 (b) (1) If a person files a statement under § 14–104 of this title that does not
5 include all the information required, the State Board shall notify the person in writing of
6 the particular deficiencies.

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

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

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

13 (ii) an amended statement required under subsection (b) of this
14 section.

15 (2) The State Board may impose late filing fees in the same amounts and
16 in the same manner as provided under [§ 13–331(a) and (b)] **§§ 13–331(A), (B), AND (C),**
17 **13–335, AND 13–337** of this article for late filing of campaign finance reports.

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

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

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

26 **14–107.1.**

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

30 **(2) THE PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED**
31 **~~\$10,000~~ \$5,000.**

32 **(3) AN INFRACTION DESCRIBED IN PARAGRAPH (1) OF THIS**

1 SUBSECTION IS A CIVIL OFFENSE.

2 (B) (1) IF THE STATE PROSECUTOR OR THE STATE'S ATTORNEY WITH
3 JURISDICTION DETERMINES THAT A PERSON UNINTENTIONALLY, AND WITHOUT
4 CRIMINAL INTENT, HAS VIOLATED A PROVISION OF THIS TITLE, THE STATE
5 PROSECUTOR, THE STATE'S ATTORNEY, OR BOTH, SHALL ISSUE TO THE PERSON A
6 CIVIL CITATION THAT CONTAINS:

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

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

9 (III) THE MANNER IN WHICH THE VIOLATION OCCURRED;

10 (IV) THE MAXIMUM PENALTY FOR THE VIOLATION;

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

12 (VI) WHERE TO PAY THE PENALTY; AND

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

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

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

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

23 (2) THE TRIAL IN THE DISTRICT COURT SHALL BE CONDUCTED IN
24 THE SAME MANNER AS SET FORTH FOR MUNICIPAL INFRACTIONS UNDER §§ 6-108,
25 6-109, AND 6-111 THROUGH 6-115 OF THE LOCAL GOVERNMENT ARTICLE.

26 (3) THE DISTRICT COURT SHALL DISTRIBUTE ALL LATE FEES
27 COLLECTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §
28 15-103 OF THIS ARTICLE.

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

1 (I) IS NOT A CRIMINAL CONVICTION; AND

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

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

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

10 (1) IN FAVOR OF THE STATE BOARD;

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

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

15 (G) A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE
16 DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §
17 15-103 OF THIS ARTICLE.

18 14-107.2.

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

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

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

29 (2) A PERSON MAY NOT MAKE AN ELECTRONIC SUBMISSION OF A
30 STATEMENT REQUIRED UNDER § 14-104 OF THIS TITLE OR ANY OTHER DOCUMENT

1 REQUIRED BY THIS TITLE ON BEHALF OF ANOTHER PERSON WITHOUT THAT
2 PERSON’S EXPRESS CONSENT.

3 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF
4 PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED UNDER THE
5 CRIMINAL LAW ARTICLE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
7 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.