

1 SB121
2 209421-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/29/2021

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8 SYNOPSIS: Under existing law, principal campaign
9 committees and political action committees must
10 periodically file campaign finance reports and
11 statements with the Secretary of State, except
12 candidates for municipal office must file campaign
13 finance reports and statements with the appropriate
14 judge of probate. These statements must be filed
15 electronically, except a committee receiving five
16 thousand dollars (\$5,000) or less per election
17 cycle may file by paper or facsimile.

18 Under existing law, the Secretary of State
19 or the judge of probate may levy civil penalties
20 against a person who files a materially inaccurate
21 campaign finance report.

22 This bill would require all campaign finance
23 reports and statements to be filed electronically,
24 without exception.

25 This bill would require all campaign finance
26 reports and statements, including reports and

1 statements for a candidate running for municipal
2 office, to be filed with the Secretary of State.

3 This bill would also make nonsubstantive,
4 technical revisions to update the existing code
5 language to current style.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to campaign finance statements and reports;
12 to amend Sections 17-5-4, 17-5-5, 17-5-8, 17-5-9, 17-5-10,
13 17-5-11, 17-5-19.1, and 17-5-19.2, Code of Alabama 1975; to
14 require all campaign finance reports and statements to be
15 filed electronically and filed with the Secretary of State;
16 and to make nonsubstantive, technical revisions to update
17 existing code language to current style.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 17-5-4, 17-5-5, 17-5-8, 17-5-9,
20 17-5-10, 17-5-11, 17-5-19.1, and 17-5-19.2, Code of Alabama
21 1975, are amended to read as follows:

22 "§17-5-4.

23 "(a) Within five days after any person becomes a
24 candidate for office, ~~such~~ the person shall file with the
25 Secretary of State ~~or judge of probate, as provided in Section~~
26 ~~17-5-9,~~ a statement showing the name of not less than two nor
27 more than five persons elected to serve as the principal

1 campaign committee for ~~such~~ the candidate, together with a
2 written acceptance or consent by ~~such~~ the committee, but any
3 candidate may declare himself or herself as the person chosen
4 to serve as the principal campaign committee, in which case
5 ~~such~~ the candidate shall perform the duties of chair and
6 treasurer of ~~such~~ the committee ~~prescribed by this chapter.~~

7 "(b) If any ~~vacancies are~~ vacancy is created by
8 death, ~~or~~ resignation, ~~or~~ any other cause, ~~such~~ the candidate
9 may fill ~~such~~ the vacancy, ~~or~~ the remaining members shall
10 discharge and complete the duties required of ~~such~~ the
11 committee as if ~~such~~ the vacancy had not been created. The
12 principal campaign committee, or its treasurer, shall have
13 exclusive custody of all moneys contributed, donated,
14 subscribed, or in any manner furnished to or for the candidate
15 represented by ~~such~~ the committee, and shall account for and
16 disburse the same.

17 "(c) If a candidate serves as his or her own
18 principal campaign committee, he or she shall designate a
19 person responsible for dissolving that principal campaign
20 committee in the event of death or incapacity by filing a
21 statement of dissolution and filing a termination report. If
22 the designated person is unable to serve in this capacity at
23 the time of death or incapacity, the principal campaign
24 committee shall be dissolved by the candidate's personal
25 representative as appointed by the judge of probate. All funds
26 held by the principal campaign committee at the time of death
27 shall be disposed of in a manner provided in Section 17-5-7.

1 "(d) No candidate shall expend any money in aid of
2 his or her nomination or election except by contributing to
3 the principal campaign committee designated by the candidate.

4 "§17-5-5.

5 "(a) The treasurer or designated filing agent of
6 each political action committee ~~which~~ that anticipates either
7 receiving contributions or making expenditures during the
8 calendar year in an aggregate amount exceeding one thousand
9 dollars (\$1,000) shall file with the Secretary of State ~~or the~~
10 ~~judge of probate as herein provided in Section 17-5-9,~~ a
11 statement of organization, within 10 days after its
12 organization or, if later within 10 days after the date on
13 which it has information which causes the committee to
14 anticipate it will receive contributions or make expenditures
15 in an aggregate amount in excess of one thousand dollars
16 (\$1,000).

17 "(b) The statement of organization shall include all
18 of the following:

19 "(1) The name and complete address of the committee.

20 "(2) The identification of affiliated or connected
21 organizations, if any.

22 "(3) The purposes of the committee.

23 "(4) The identification of the chair and treasurer.

24 "(5) The identification of principal officers,
25 including members of any finance committee.

26 "(6) A description of the constitutional amendments
27 or other propositions, if any, that the committee is

1 supporting or opposing, and the identity, if known, of any
2 candidate or elected official that the committee is supporting
3 or opposing.

4 "(7) A statement whether the committee is a
5 continuing one, and if not, the expected termination or
6 dissolution date.

7 "(8) The disposition of residual funds which will be
8 made in the event of dissolution.

9 "(c) Whenever there is any material change in
10 information previously submitted in a statement of
11 organization, except for the information described in
12 subdivision (6) ~~above~~ of subsection (b), the treasurer or
13 designated filing agent of the political action committee
14 shall report the change to the Secretary of State ~~or judge of~~
15 ~~probate as provided in Section 17-5-9,~~ within 10 days
16 following the change.

17 "(d) Any political action committee or any principal
18 campaign committee after having filed its initial statement of
19 organization shall continue in existence until terminated or
20 dissolved as provided herein. When any political action
21 committee determines it will no longer receive contributions
22 or make expenditures during any calendar year in an aggregate
23 amount exceeding one thousand dollars (\$1,000), or when any
24 candidate through his or her principal campaign committee
25 determines that he or she will not receive contributions or
26 make expenditures in the amounts specified in Section 17-5-2,
27 the treasurer, designated filing agent, or candidate of such

1 the political committee shall so notify the Secretary of State
2 ~~or judge of probate, as designated in Section 17-5-9,~~ of the
3 termination or dissolution of ~~such~~ the political committee and
4 shall file a termination report in the same format as that
5 required by subsection (b) of Section 17-5-8. The Secretary of
6 State ~~shall have the authority to~~ may dissolve or terminate
7 any political action committee that has maintained a zero
8 balance for one calendar year after providing a 90-day notice
9 of intent to do so by certified mail with return receipt.

10 "§17-5-8.

11 "(a) All filings to the Secretary of State under
12 this section shall be made electronically. Electronic filings
13 shall be available to the public on a searchable database
14 maintained on the Secretary of State's public website.

15 "(b) The treasurer, designated filing agent, or
16 candidate, shall file with the Secretary of State ~~or judge of~~
17 ~~probate, as designated in Section 17-5-9,~~ periodic reports of
18 contributions and expenditures at the following times once a
19 principal campaign committee files its statement under Section
20 17-5-4 or a political action committee files its statement of
21 organization under Section 17-5-5:

22 "~~(1) Beginning after the 2012 election cycle,~~
23 ~~regardless~~ Regardless of whether a candidate has opposition in
24 any election, monthly reports not later than the second
25 business day of the subsequent month, beginning 12 months
26 before the date of any primary, special, runoff, or general
27 election for which a political action committee or principal

1 campaign committee receives contributions or makes
2 expenditures with a view toward influencing such election's
3 result. A monthly report shall include all reportable
4 transactions for the previous full month period. Reports shall
5 be required as provided in subdivisions (2) and (3).

6 "(2) With regard to a primary, special, runoff, or
7 general election, a report shall be required weekly on the
8 Monday of the succeeding week for each of the four weeks
9 before the election that includes all reportable activities
10 for the previous week.

11 "(3) ~~a.~~ In addition to the reporting dates specified
12 in subdivisions (1) and (2), reports required to be filed with
13 the Secretary of State shall be filed with the Secretary of
14 State on the eighth, seventh, sixth, fifth, fourth, third, and
15 second day preceding a legislative, state school board, or
16 other statewide primary, special, runoff, or general election,
17 and by 12:01 p.m. on the day preceding a legislative, state
18 school board, or statewide, primary, special, runoff, or
19 general election if any principal campaign committee or
20 political action committee receives or spends in the aggregate
21 five thousand dollars (\$5,000) or more on that day with a view
22 toward influencing an election's results. If a daily report is
23 required pursuant to this subdivision, the report shall
24 include all reportable activity occurring on the day of the
25 report as well as all reportable activity that has occurred on
26 each day since the most recent prior report. ~~Principal~~
27 ~~campaign committees and political action committees that are~~

1 ~~exempt from electronic filing and principal campaign~~
2 ~~committees and political action committees required to make~~
3 ~~daily reports pursuant to this subdivision for the 2012~~
4 ~~election cycle may file reports by facsimile (FAX)~~
5 ~~transmission provided they keep proper documentation in their~~
6 ~~office.~~

7 "b. ~~Electronic filing on the Secretary of State's~~
8 ~~website may be implemented sooner than the 2014 election cycle~~
9 ~~as an alternative method of reporting; however, electronic~~
10 ~~filing shall be required beginning with the 2014 election~~
11 ~~cycle. Electronic filings shall be available to the public on~~
12 ~~a searchable database maintained on the Secretary of State's~~
13 ~~website.~~

14 "~~(b)~~ (c) Except as provided in subsection ~~(k)~~ (i),
15 each principal campaign committee, political action committee,
16 and elected state and local official covered under the
17 provisions of this chapter who has not closed his or her
18 principal campaign committee, shall file annually ~~file~~ with
19 the Secretary of State ~~or judge of probate, as designated in~~
20 ~~Section 17-5-9,~~ reports of contributions and expenditures made
21 during that year. No annual report is required to be filed by
22 a person who holds office because he or she was appointed to
23 serve the remainder of a term vacated by another person, until
24 the person serving has created a principal campaign committee.
25 The annual reports required under this subsection shall be
26 made on or before January 31 of the succeeding year.

1 "~~(c)~~(d) Each report under this section shall
2 disclose:

3 "(1) The amount of cash or other assets on hand at
4 the beginning of the reporting period and forward until the
5 end of that reporting period and disbursements made from same.

6 "(2) The identification of each person who has made
7 contributions to such committee or candidate within the
8 calendar year in an aggregate amount greater than one hundred
9 dollars (\$100), together with the amount and date of all such
10 contributions; provided, however, in the case of a political
11 action committee identification shall mean the name and city
12 of residence of each person who has made contributions within
13 the calendar year in an aggregate amount greater than one
14 hundred dollars (\$100).

15 "(3) The total amount of other contributions
16 received during the calendar year but not reported under
17 subdivision ~~(c)~~(2) of this section.

18 "(4) Each loan to or from any person within the
19 calendar year in an aggregate amount greater than one hundred
20 dollars (\$100), together with the identification of the
21 lender, the identification of the endorsers, or guarantors, if
22 any, and the date and amount of such loans.

23 "(5) The total amount of receipts from any other
24 source during such calendar year.

25 "(6) The grand total of all receipts by or for such
26 committee during the calendar year.

1 "(7) The identification of each person to whom
2 expenditures have been made by or on behalf of such committee
3 or elected official within the calendar year in an aggregate
4 amount greater than one hundred dollars (\$100), the amount,
5 date, and purpose of each such expenditure, and, if
6 applicable, the designation of each constitutional amendment
7 or other proposition with respect to which an expenditure was
8 made.

9 "(8) The identification of each person to whom an
10 expenditure for personal services, salaries, and reimbursed
11 expenses greater than one hundred dollars (\$100) has been
12 made, and which is not otherwise reported or exempted from the
13 provisions of this chapter, including the amount, date, and
14 purpose of such expenditure.

15 "(9) The grand total of all expenditures made by
16 such committee or elected official during the calendar year.

17 "(10) The amount and nature of debts and obligations
18 owed by or to the committee or elected official, together with
19 a statement as to the circumstances and conditions under which
20 any such debt or obligation was extinguished and the
21 consideration therefor.

22 "~~(d)~~ (e) Each report required by this section shall
23 be signed and filed by the elected official or on behalf of
24 the political action committee by its chair or treasurer and,
25 if filed on behalf of a principal campaign committee, by the
26 candidate represented by ~~such~~ the committee. There shall be
27 attached to each ~~such~~ report an affidavit subscribed and sworn

1 to by the official or chair or treasurer and, if filed by a
2 principal campaign committee, the candidate represented by
3 ~~such~~ the committee, setting forth in substance that ~~such~~ the
4 report is to the best of his or her knowledge and belief in
5 all respects true and complete, and, if made by a candidate,
6 that he or she has not received any contributions or made any
7 expenditures which are not set forth and covered by ~~such~~ the
8 report.

9 ~~"(e) Commencing with the 2014 election cycle,~~
10 ~~electronic filing of contributions and expenditures for any~~
11 ~~legislative, state school board, and statewide primary,~~
12 ~~special, runoff, or general election shall be mandatory,~~
13 ~~except as provided in subsection (g). The Secretary of State~~
14 ~~may provide electronic reporting sooner than the 2014 election~~
15 ~~cycle. Electronic filing shall satisfy any filing requirements~~
16 ~~of this chapter and no paper filing is required for any report~~
17 ~~filed electronically.~~

18 ~~"(f) In the 2012 election cycle the provisions for~~
19 ~~the time of filing contained in subsection (a) shall apply to~~
20 ~~the paper or facsimile (FAX) filings for any legislative,~~
21 ~~state school board, or statewide primary, special, runoff, or~~
22 ~~general election.~~

23 ~~"(g) Electronic filing of reports shall not apply to~~
24 ~~any campaign, principal campaign committee, or political~~
25 ~~action committee receiving five thousand dollars (\$5,000) or~~
26 ~~less per election cycle.~~

1 "~~(h)~~(f) In connection with any electioneering
2 communication paid for by a person, nonprofit corporation,
3 entity, principal campaign committee, or other political
4 committee or entity, the payor shall disclose its
5 contributions and expenditures in accordance with this
6 section. The disclosure shall be made in the same form and at
7 the same time as is required of political action committees in
8 this section; provided, however, no duplicate reporting shall
9 be required by a political committee.

10 "~~(i)~~(g) Notwithstanding any disclosure requirements
11 of subsection ~~(h)~~(f), churches are exempt from the
12 requirements of this section unless the church's expenditures
13 are used to influence the outcome of an election. Nothing
14 herein shall require a church to disclose the identities,
15 donations, or contributions of members of the church. As used
16 in this section, the term church is defined in accordance with
17 and recognized by Internal Revenue Service guidelines and
18 regulations.

19 "~~(j)~~(h) Notwithstanding the disclosure requirements
20 of this section, ~~the provisions of~~ this section shall not be
21 interpreted to nor shall they require any disclosure for
22 expenses incurred for any electioneering communication used by
23 any membership or trade organization to communicate with or
24 inform its members, its members' families, or its members'
25 employees or for any electioneering communication by a
26 business entity of any type to its employees or stockholders
27 or their families.

1 "~~(k)~~(i) Each report required by this section shall
2 include all reportable transactions occurring since the most
3 recent prior report; however, duplicate reporting is not
4 required by this section. A political action committee or
5 principal campaign committee that is required to file a daily
6 report is not required to also file a weekly report for the
7 week preceding an election specified in subdivision (b)(3) ~~of~~
8 ~~subsection (a)~~; a committee required to file a weekly report
9 is not required to also file a monthly report in the month in
10 which the election is held; and a committee required to file a
11 monthly report is not required to also file an annual report
12 in the year in which the election is held. The monetary
13 balance in a report of each committee shall begin at the
14 monetary amount appearing in the most recent prior report.

15 "~~(i)~~(j) The Secretary of State may ~~promulgate~~ adopt
16 administrative rules pursuant to the Alabama Administrative
17 Procedure Act as are necessary to implement and administer ~~the~~
18 ~~changes made to this section by Act 2012-477.~~

19 "§17-5-9.

20 "(a) All statements and reports, including
21 amendments, required of principal campaign committees and
22 political action committees under ~~the provisions of this~~
23 chapter shall be filed electronically with the Secretary of
24 State ~~in the case of candidates for state office or state~~
25 ~~elected officials, and in the case of candidates for local~~
26 ~~office or local elected officials, with the judge of probate~~

1 of the county in which the office is sought for the 2016
2 election cycle.

3 ~~"(b) Political action committees, which seek to~~
4 ~~influence an election for local office or to influence a~~
5 ~~proposition regarding a single county, shall file all reports~~
6 ~~and statements, including amendments, with the judge of~~
7 ~~probate of the county affected. All other political action~~
8 ~~committees, except as provided in subsection (a) above, shall~~
9 ~~file reports and statements with the Secretary of State.~~

10 ~~"(c) In the case of candidates for a municipal~~
11 ~~office where the municipality is located in more than one~~
12 ~~county, the statements and reports shall be filed in the~~
13 ~~county where the city hall of the municipality is located. The~~
14 ~~judge of probate of the county where the report is filed, if~~
15 ~~the municipality is located in more than one county, shall~~
16 ~~provide a copy of the report to the judge of probate of the~~
17 ~~other county or counties where the municipality is located.~~

18 ~~"(d) For the 2014 and 2016 election cycles, all~~
19 ~~principal campaign committees and political action committees~~
20 ~~that file with the judge of probate, other than candidates for~~
21 ~~municipal office, may choose instead to file electronically~~
22 ~~with the Secretary of State pursuant to this chapter. Any such~~
23 ~~principal campaign committee or political action committee~~
24 ~~that chooses to file electronically with the Secretary of~~
25 ~~State shall first provide notice to the appropriate judge of~~
26 ~~probate, in a manner prescribed by the judge of probate,~~
27 ~~indicating that choice and shall continue to file~~

1 ~~electronically with the Secretary of State until terminated or~~
2 ~~dissolved pursuant to this chapter.~~

3 "~~(e)~~ (b) Commencing with the ~~2018~~ 2023 municipal
4 election cycle, all principal campaign committees and
5 political action committees that file with the judge of
6 probate, ~~other than candidates for municipal office,~~ shall
7 file electronically with the Secretary of State pursuant to
8 this chapter.

9 "§17-5-10.

10 "(a) Each report or statement shall be preserved and
11 a copy made available for public inspection by the Secretary
12 of State ~~or judge of probate, whichever is applicable.~~

13 "(b) The date of filing of a report or statement
14 filed pursuant to this chapter shall be deemed to be the date
15 of receipt by the Secretary of State ~~or judge of probate, as~~
16 ~~the case may be;~~ provided, that any report or statement filed
17 by certified or registered mail shall be deemed to be filed in
18 a timely fashion if the date of the United States postmark
19 stamped on such report or statement is the required filing
20 date, and if ~~such~~ the report or statement is properly
21 addressed with postage prepaid.

22 "§17-5-11.

23 "The Secretary of State ~~and the judge of probate~~
24 shall have the following duties:

25 "(1) To accept and file all reports and statements,
26 including amendments, required by ~~the provisions of this~~
27 chapter to be filed with them and to accept any information

1 voluntarily supplied that exceeds the requirements of this
2 chapter.

3 "(2) To make each statement and report filed by any
4 principal campaign committee or political action committee or
5 elected official available for public inspection and copying
6 during regular office hours, any such copying to be at the
7 expense of the person requesting copies; except that any
8 information copied from such reports or statements may not be
9 sold or used by any political party, principal campaign
10 committee, or political action committee for the purposes of
11 soliciting contributions or for commercial purposes, without
12 the express written permission of the candidate or the
13 committee reporting such information.

14 "(3) To furnish any forms to be used in complying
15 with ~~the provisions of~~ this chapter. The expenses incurred by
16 the Secretary of State in furnishing forms, accepting
17 statements and reports, filing statements and reports, and
18 making such statements and reports available to the public
19 shall be paid from moneys designated to the distribution of
20 public documents.

21 "§17-5-19.1.

22 "(a) ~~Commencing with the 2018 election cycle, the~~
23 ~~appropriate election official, based on the location of filing~~
24 ~~as required by Section 17-5-9, The Secretary of State shall~~
25 ~~levy an administrative~~ a civil penalty against any person who
26 fails to timely file a report required by this chapter and who
27 does not remedy the filing of the report pursuant to

1 subsection (h). The State Ethics Commission ~~shall have the~~
2 ~~authority to~~ may levy an administrative penalty against any
3 person who files a materially inaccurate report required by
4 this chapter and who does not remedy the filing of the report
5 pursuant to subsection (g).

6 "(b) The schedule of civil penalties shall be as
7 follows:

8 "(1) The lesser of three hundred dollars (\$300) or
9 10 percent of the amount of contributions or expenditures not
10 properly reported for a first offense in an election cycle.

11 "(2) The lesser of six hundred dollars (\$600) or 15
12 percent of the amount of contributions or expenditures not
13 properly reported for a second offense in an election cycle.

14 "(3) The lesser of one thousand two hundred dollars
15 (\$1,200) or 20 percent of the amount of contributions or
16 expenditures not properly reported for a third or subsequent
17 offense in an election cycle.

18 "(c) A fourth failure to timely or accurately file a
19 report in an election cycle shall create a rebuttable
20 presumption of intent to violate the reporting requirements of
21 this chapter. The Secretary of State ~~or judge of probate, as~~
22 ~~appropriate based on the location of filing,~~ shall notify the
23 Attorney General and the appropriate district attorney of all
24 persons who violate the filing requirements four or more times
25 in an election cycle.

26 "(d) Upon imposition of a civil penalty pursuant to
27 this section, the ~~appropriate filing official~~ Secretary of

1 State shall send the person upon whom the penalty is being
2 imposed proper notification by certified mail of the
3 imposition of the penalty. If an electronic mail address is on
4 file with the Secretary of State, the Secretary of State shall
5 also provide ~~such~~ notification by electronic mail.

6 "(e) Civil penalties levied shall be paid to the
7 ~~appropriate filing official~~ Secretary of State within 45 days
8 of the finality of any review. The Secretary of State ~~or judge~~
9 ~~of probate~~, through his or her attorney, may institute
10 proceedings to recover any penalties ordered pursuant to this
11 section that are not paid by, or on behalf of, the person
12 against whom they are levied and may collect necessary fees
13 and costs associated with the collection action.

14 "(f) All penalties collected by ~~a judge of probate~~
15 ~~shall be distributed to that county's general fund, and all~~
16 ~~penalties collected by~~ the Secretary of State shall be
17 distributed to the State General Fund.

18 "(g) A person who voluntarily files an amended
19 report to correct an error in an otherwise timely filed report
20 without being prompted by ~~a filing official~~ the Secretary of
21 State shall not have committed an offense or be subjected to a
22 civil penalty under this section, so long as, in the case of a
23 candidate, the corrected report is filed prior to the election
24 at issue, and so long as, in the case of a political action
25 committee, the corrected report is filed prior to the close of
26 the calendar year.

1 "(h) Failure to file a timely report shall not be
2 considered an offense or subjected to a civil penalty pursuant
3 to subsection (a) so long as it is the first failure by that
4 candidate or political action committee for the election cycle
5 and the report is filed within 48 hours of the time it was
6 due.

7 "(i) Any penalties assessed pursuant to this section
8 may be paid with campaign funds.

9 "§17-5-19.2.

10 "(a) Any person upon whom a civil penalty has been
11 imposed pursuant to Section 17-5-19.1 may seek a review of
12 ~~such~~ the penalty by filing a written notice with the Secretary
13 of State ~~or judge of probate~~ no later than 14 days after the
14 date on which notification of the imposition of the penalty
15 was mailed to the person's last known address in accordance
16 with Section 17-5-19.1. The Secretary of State ~~or judge of~~
17 ~~probate~~ shall refer ~~such~~ the review to the State Ethics
18 Commission.

19 "(b) The commission may set aside or reduce a civil
20 penalty upon a showing of good cause. The person seeking
21 review shall bear the burden of proof."

22 Section 2. This act shall become effective October
23 1, 2021, following its passage and approval by the Governor,
24 or its otherwise becoming law.