

Regular Session, 2012

# ACT No. 609

HOUSE BILL NO. 955

BY REPRESENTATIVE TIM BURNS

1 AN ACT

2 To amend and reenact R.S. 18:463(A)(2)(c)(i), 1505.4(A)(1) and (4), (C), and (D)(1),  
3 1511.4(D), and 1511.5(A)(1) and (2), (B), and (D) and to enact R.S. 18:1511.4.1,  
4 relative to the Campaign Finance Disclosure Act; to clarify the enforcement of  
5 certain violations of the Campaign Finance Disclosure Act; to the provide for the  
6 powers, functions, and duties of the Supervisory Committee on Campaign Finance  
7 Disclosure and the Ethics Adjudicatory Board relative to such enforcement; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 18:463(A)(2)(c)(i), 1505.4(A)(1) and (4), (C), and (D)(1), 1511.4(D),  
11 and 1511.5(A)(1) and (2), (B), and (D) are hereby amended and reenacted and  
12 R.S.18:1511.4.1 is hereby enacted to read as follows:

13 §463. Notice of candidacy; financial disclosure; political advertising; penalties

14 A.

15 \* \* \*

16 (2)

17 \* \* \*

18 (c) For the purposes of this Paragraph:

19 (i) "Outstanding fine, fee, or penalty pursuant to the Campaign Finance  
20 Disclosure Act" shall mean a fine, fee, or penalty equal to an amount of two hundred  
21 fifty dollars or more assessed by order of the Supervisory Committee on Campaign  
22 Finance Disclosure or by final decision of an adjudicatory panel of the Ethics  
23 Adjudicatory Board pursuant to the Campaign Finance Disclosure Act that has been  
24 converted into a court order for which all appeals have been exhausted or a judgment  
25 of a district court assessing civil penalties pursuant to the Campaign Finance

1 Disclosure Act and that has become executory pursuant to ~~R.S. 18:1511.5~~ R.S.  
2 18:1511.4.1 or 1511.5.

3 \* \* \*

4 §1505.4. Civil penalties; failure to file; timely and accurate filing; forfeiture

5 A.(1) Any candidate, the treasurer or chairman of a political committee, or  
6 any other person required to file any reports under this Chapter, who knowingly fails  
7 to file or who knowingly fails to timely file any such reports as are required by this  
8 Chapter may be assessed a civil penalty as provided in ~~R.S. 42:1157~~ R.S.  
9 18:1511.4.1 for each day until such report is filed.

10 \* \* \*

11 (4)(a) For reports required by this Chapter which are required to be filed  
12 between the time a candidate qualifies and election day, in addition to any penalties  
13 which may be imposed under this Section or any other law, the supervisory  
14 committee may impose on any person required to file such a report who has not filed  
15 such report by the sixth day after the report is due, after ~~a hearing by the supervisory~~  
16 ~~committee pursuant to the provisions of R.S. 18:1511.4(C)~~ an adjudicatory hearing  
17 by an adjudicatory panel of the Ethics Adjudicatory Board conducted in accordance  
18 with the provisions of the Code of Governmental Ethics, with notice to the party who  
19 is the subject of the hearing, an additional civil penalty not to exceed ten thousand  
20 dollars.

21 (b) For all other reports required by this Chapter, in addition to any penalties  
22 which may be imposed by this Section or any other law, the supervisory committee  
23 may impose on any person required to file such a report who has not filed such report  
24 by the eleventh day after the report is due, after ~~a hearing by the supervisory~~  
25 ~~committee pursuant to the provisions of R.S. 18:1511.4(C)~~ an adjudicatory hearing  
26 by an adjudicatory panel of the Ethics Adjudicatory Board conducted in accordance  
27 with the provisions of the Code of Governmental Ethics, with notice to the party who  
28 is the subject of the hearing, an additional civil penalty not to exceed ten thousand  
29 dollars.

30 \* \* \*

1 C. Notwithstanding the provisions of Subsection A of this Section and the  
 2 provisions of ~~R.S. 42:1157~~ R.S. 18:1511.4.1, for committees that are supporting,  
 3 opposing, or otherwise influencing the nomination or election of a person to public  
 4 office the maximum amount of the penalty that shall be imposed for knowingly  
 5 failing to file or knowingly failing to timely file any reports required by this Chapter  
 6 for a special election shall be the total of the expenditures made for the purpose of  
 7 supporting, opposing, or otherwise influencing the nomination or election of a person  
 8 or persons to public office in such special election or the maximum penalty under the  
 9 provisions of Subsection A of this Section, whichever is less. This Subsection shall  
 10 not apply to a candidate's principal campaign committee or any designated subsidiary  
 11 committee of a candidate.

12 D.(1) Any elected official who fails to comply with a final order of a court  
 13 or the supervisory committee or a final decision of an adjudicatory panel of the  
 14 Ethics Adjudicatory Board which imposes a fine, fee, or penalty pursuant to this  
 15 Chapter and against which all appeal delays have lapsed shall be subject to forfeiture  
 16 of the nonexempt portion of his public salary, as provided in this Subsection, until  
 17 such time as he has complied with such order or final decision. The forfeiture shall  
 18 take effect no less than twenty days after notice is sent to the elected official pursuant  
 19 to Paragraph (2) of this Subsection.

20 \* \* \*

21 §1511.4. Supervisory committee; investigations

22 \* \* \*

23 D. Upon petition by the supervisory committee or an adjudicatory panel of  
 24 the Ethics Adjudicatory Board any district court within the jurisdiction of which any  
 25 inquiry is being carried on may, in case of refusal to obey a subpoena or order of the  
 26 supervisory committee or an adjudicatory panel of the Ethics Adjudicatory Board  
 27 issued pursuant to this Chapter, issue an order requiring compliance. Any failure to  
 28 obey the order of the court may be punished by the court as a contempt thereof.

1           §1511.4.1. Enforcement; failure to file; failure to timely file

2                   A. The staff of the supervisory committee may assess and issue a final order  
3                   for the payment of civil penalties for knowingly failing to file or knowingly failing  
4                   to timely file in accordance with R.S. 18:1505.4 and rules adopted by the supervisory  
5                   committee.

6                   B. The supervisory committee may waive all or part of any civil penalties  
7                   assessed pursuant to Subsection A of this Section. A request for waiver of such  
8                   penalties shall be made in writing to the supervisory committee, which shall  
9                   promulgate rules governing the procedure to request a waiver. The supervisory  
10                  committee may take into consideration the provisions of R.S. 18:1511.5(B) in its  
11                  consideration of the request for waiver of civil penalties. The final disposition of a  
12                  waiver request shall not be appealable to the Ethics Adjudicatory Board or a panel  
13                  thereof.

14                  C.(1) A final order issued pursuant to Subsection A of this Section shall be  
15                  appealable to an adjudicatory panel of the Ethics Adjudicatory Board which shall  
16                  conduct an adjudicatory hearing in accordance with the Code of Governmental  
17                  Ethics.

18                  (2) If a final order is appealed pursuant to Paragraph (1) of this Subsection,  
19                  an adjudicatory panel of the Ethics Adjudicatory Board shall determine the penalties,  
20                  if any, that should be imposed in accordance with this Chapter, and shall issue a final  
21                  decision. The final decision may be appealed as provided in R.S. 42:1142.

22                  (3) The Ethics Adjudicatory Board, or a panel thereof, shall have the power  
23                  and authority to subpoena witnesses, administer oaths, compel the production of  
24                  books, records, and papers, public and private, require the submission under oath of  
25                  written reports or answers to questions, and to do all that is necessary to effect the  
26                  provisions of this Chapter.

27                  D. When all delays for a request for waiver or appeal have expired, a final  
28                  order of the supervisory committee or its staff or final decision of an adjudicatory  
29                  panel of the Ethics Adjudicatory Board shall become executory and may be enforced  
30                  as any other money judgement. The supervisory committee may file civil

1 proceedings to collect such civil penalties in the district court of the parish in which  
 2 the candidate, chairman, or treasurer of the political committee or other person  
 3 required to file reports is domiciled. The proceedings shall be conducted pursuant  
 4 to the relevant provisions of the Louisiana Code of Civil Procedure. The proceeds  
 5 of such civil penalties shall be paid directly to the treasurer of the state of Louisiana.

6 §1511.5. Procedure for enforcement; civil

7 A.(1) When the results of the investigation by the supervisory committee  
 8 indicate that a violation of this Chapter has occurred which is subject to civil  
 9 penalties, the supervisory committee is authorized to file civil proceedings to collect  
 10 the civil penalties provided in R.S. 18:1505.4(B) or 1505.5.

11 (2) The provisions of this Section shall not apply to any action for the  
 12 payment of ~~late filing fees for reports or statements~~ civil penalties due pursuant to  
 13 R.S. 18:1505.4 for knowingly failing to file or knowingly failing to timely file,  
 14 which shall be governed by R.S. ~~42:1157~~, ~~except that the board may take into~~  
 15 ~~consideration the provisions of Subsection B of this Section in its consideration of~~  
 16 ~~"good cause" shown for waiver of any late fees, pursuant to R.S. 42:1157.2~~ R.S.  
 17 18:1511.4.1.

18 \* \* \*

19 B. In determining the amount of the civil penalty to be assessed, the district  
 20 court shall take into consideration, ~~where applicable,~~ the reason for the failure to file  
 21 timely, ~~or~~ the reason for failing to disclose required information, ~~or~~ the reason for  
 22 inaccurately disclosing required information; the nature of the office sought by the  
 23 ~~candidate, or the nature of the office or offices sought by a candidate~~ supported or  
 24 ~~opposed, in the case of~~ by a political committee or other person; the significance of  
 25 the information undisclosed or, where appropriate, inaccurately disclosed to the  
 26 voting public; and whether or not the candidate, chairman or treasurer of the  
 27 political committee, or other person actually has filed a report or disclosed such  
 28 information prior to the election or prior to the institution of the rule to show cause.

29 \* \* \*

1                   D. A judgment assessing civil penalties shall become executory when all  
 2                   delays for appeal have expired according to the Louisiana Code of Civil Procedure,  
 3                   and may be enforced as any other money judgment; ~~however.~~ However, the  
 4                   proceeds of such civil penalties shall be paid directly to the treasurer of the state of  
 5                   Louisiana.

6                   Section 2. This Act shall become effective upon signature by the governor or, if not  
 7                   signed by the governor, upon expiration of the time for bills to become law without signature  
 8                   by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 9                   vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 10                  effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_