ACT #2021 - 314

- 1 HB154
- 2 208743-6
- 3 By Representative Whitt
- 4 RFD: Constitution, Campaigns and Elections
- 5 First Read: 02-FEB-21
- 6 PFD: 01/26/2021



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2 <u>ENROLLED</u>, An Act,

Relating to campaign finance statements and reports;

to amend Sections 17-5-4, 17-5-5, 17-5-8, 17-5-9, 17-5-10,

17-5-11, 17-5-19.1, and 17-5-19.2, Code of Alabama 1975; to

require all campaign finance reports and statements to be

filed electronically and filed with the Secretary of State;

and to make nonsubstantive, technical revisions to update

existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "\$17-5-4.

"(a) Within five days after any person becomes a candidate for office, such the person shall file with the Secretary of State or judge of probate, as provided in Section 17-5-9, a statement showing the name of not less than two nor more than five persons elected to serve as the principal campaign committee for such the candidate, together with a written acceptance or consent by such the committee, but any candidate may declare himself or herself as the person chosen to serve as the principal campaign committee, in which case such the candidate shall perform the duties of chair and treasurer of such the committee prescribed by this chapter.

"(b) If any vacancies are <u>vacancy is</u> created by
death, or resignation, or any other cause, such the candidate
may fill such the vacancy, or the remaining members shall
discharge and complete the duties required of $\frac{\text{such } \text{the}}{\text{otherwise}}$
committee as if such the vacancy had not been created. The
principal campaign committee, or its treasurer, shall have
exclusive custody of all moneys monies contributed, donated,
subscribed, or in any manner furnished to or for the candidate
represented by such the committee, and shall account for and
disburse the same.

- "(c) If a candidate serves as his or her own principal campaign committee, he or she shall designate a person responsible for dissolving that principal campaign committee in the event of death or incapacity by filing a statement of dissolution and filing a termination report. If the designated person is unable to serve in this capacity at the time of death or incapacity, the principal campaign committee shall be dissolved by the candidate's personal representative as appointed by the judge of probate. All funds held by the principal campaign committee at the time of death shall be disposed of in a manner provided in Section 17-5-7.
- "(d) No candidate shall expend any money in aid of his or her nomination or election except by contributing to the principal campaign committee designated by the candidate.

25 "\$17-5-5.

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1	(a) The creasurer of designated fifting agent of
2	each political action committee which that anticipates either
3	receiving contributions or making expenditures during the
4	calendar year in an aggregate amount exceeding one thousand
5	dollars (\$1,000) shall file with the Secretary of State or the
6	judge of probate as herein provided in Section 17-5-9, a
7	statement of organization, within 10 days after its
8	organization or, if later within 10 days after the date on
9	which it has information $\frac{1}{2}$ that causes the committee to
L 0	anticipate it will receive contributions or make expenditures
11	in an aggregate amount in excess of one thousand dollars
12	(\$1,000).
L3	"(b) The statement of organization shall include all
L 4	of the following:
15	"(1) The name and complete address of the committee.
16	"(2) The identification of affiliated or connected
L7	organizations, if any.
L 8	"(3) The purposes of the committee.
L 9	"(4) The identification of the chair and treasurer.
20	"(5) The identification of principal officers,
21	including members of any finance committee.
22	"(6) A description of the constitutional amendments
23	or other propositions, if any, that the committee is

supporting or opposing, and the identity, if known, of any

candidate or elected official that the committee is supporting or opposing.

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

- 6 "(8) The disposition of residual funds which will be 7 made in the event of dissolution.
 - "(c) Whenever there is any material change in information previously submitted in a statement of organization, except for the information described in subdivision (b) (6) above, the treasurer or designated filing agent of the political action committee shall report the change to the Secretary of State or judge of probate as provided in Section 17-5-9, within 10 days following the change.
 - "(d) Any political action committee or any principal campaign committee after having filed its initial statement of organization shall continue in existence until terminated or dissolved as provided herein. When any political action committee determines it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding one thousand dollars (\$1,000), or when any candidate through his or her principal campaign committee determines that he or she will not receive contributions or make expenditures in the amounts specified in Section 17-5-2,

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

"§17-5-8.

- "(a) All filings to the Secretary of State under
 this section shall be made electronically. Electronic filings
 shall be available to the public on a searchable database
 maintained on the Secretary of State's public website.
- "(b) The treasurer, designated filing agent, or candidate, shall file with the Secretary of State or judge of probate, as designated in Section 17-5-9, periodic reports of contributions and expenditures at the following times once a principal campaign committee files its statement under Section 17-5-4 or a political action committee files its statement of organization under Section 17-5-5:
- "(1) Beginning after the 2012 election cycle, regardless Regardless of whether a candidate has opposition in any election, monthly reports not later than the second

business day of the subsequent month, beginning 12 months before the date of any primary, special, runoff, or general election for which a political action committee or principal campaign committee receives contributions or makes expenditures with a view toward influencing such election's result. A monthly report shall include all reportable transactions for the previous full month period. Reports shall be required as provided in subdivisions (2) and (3).

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

"(3) a. In addition to the reporting dates specified in subdivisions (1) and (2), reports required to be filed with the Secretary of State shall be filed with the Secretary of State on the eighth, seventh, sixth, fifth, fourth, third, and second day preceding a legislative, state school board, or other statewide primary, special, runoff, or general election, and by 12:01 p.m. on the day preceding a legislative, state school board, or statewide, primary, special, runoff, or general election if any principal campaign committee or political action committee receives or spends in the aggregate five thousand dollars (\$5,000) or more on that day with a view toward influencing an election's results. If a daily report is

required pursuant to this subdivision, the report shall include all reportable activity occurring on the day of the report as well as all reportable activity that has occurred on each day since the most recent prior report. Principal campaign committees and political action committees that are exempt from electronic filing and principal campaign committees and political action committees required to make daily reports pursuant to this subdivision for the 2012 election cycle may file reports by facsimile (FAX) transmission provided they keep proper documentation in their office.

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

"(b)(c) Except as provided in subsection (k)(i), each principal campaign committee, political action committee, and elected state and local official covered under the provisions of this chapter who has not closed his or her principal campaign committee, shall file annually file with the Secretary of State or judge of probate, as designated in Section 17-5-9, reports of contributions and expenditures made

1	during that year. No annual report is required to be filed by
2	a person who holds office because he or she was appointed to
3	serve the remainder of a term vacated by another person, until
4	the person serving has created a principal campaign committee.
5	The annual reports required under this subsection shall be
6	made on or before January 31 of the succeeding year.

"(c)(<u>d)</u> Each report under this section shall disclose:

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- "(1) The amount of cash or other assets on hand at the beginning of the reporting period and forward until the end of that reporting period and disbursements made from same.
- "(2) The identification of each person who has made contributions to such committee or candidate within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the amount and date of all such the contributions; provided, however, in the case of a political action committee, identification shall mean the name and city of residence of each person who has made contributions within the calendar year in an aggregate amount greater than one hundred dollars (\$100).
- "(3) The total amount of other contributions received during the calendar year but not reported under subdivision (c) (2) of this section.
- "(4) Each loan to or from any person within the calendar year in an aggregate amount greater than one hundred

1	dollars (\$100), together with the identification of the
2	lender, the identification of the endorsers, or guarantors, if
3	any, and the date and amount of such the loans.

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

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- "(6) The grand total of all receipts by or for such the committee during the calendar year.
 - "(7) The identification of each person to whom expenditures have been made by or on behalf of such the committee or elected official within the calendar year in an aggregate amount greater than one hundred dollars (\$100), the amount, date, and purpose of each such expenditure, and, if applicable, the designation of each constitutional amendment or other proposition with respect to which an expenditure was made.
 - "(8) The identification of each person to whom an expenditure for personal services, salaries, and or reimbursed expenses greater than one hundred dollars (\$100) has been made, and which is not otherwise reported or exempted from the provisions of this chapter, including the amount, date, and purpose of such the expenditure.
- "(9) The grand total of all expenditures made by such the committee or elected official during the calendar year.

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

"(d) (e) Each report required by this section shall be signed and filed by the elected official or on behalf of the political action committee by its chair or treasurer and, if filed on behalf of a principal campaign committee, by the candidate represented by such the committee. There shall be attached to each such report an affidavit subscribed and sworn to by the official or chair or treasurer and, if filed by a principal campaign committee, the candidate represented by such the committee, setting forth in substance that such the report is to the best of his or her knowledge and belief in all respects true and complete, and, if made by a candidate, that he or she has not received any contributions or made any expenditures which are not set forth and covered by such the report.

"(e) Commencing with the 2014 election cycle, electronic filing of contributions and expenditures for any legislative, state school board, and statewide primary, special, runoff, or general election shall be mandatory, except as provided in subsection (g). The Secretary of State may provide electronic reporting sooner than the 2014 election

1	cycle. Electronic filing shall satisfy any filing requirements
2	of this chapter and no paper filing is required for any report
3	filed electronically.

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

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

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

"(i) (g) Notwithstanding any disclosure requirements of subsection (h) (f), churches are exempt from the requirements of this section unless the church's expenditures are used to influence the outcome of an election. Nothing

herein shall require a church to disclose the identities, donations, or contributions of members of the church. As used in this section, the term church is defined in accordance with and recognized by Internal Revenue Service guidelines and regulations.

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

"(k)(i) Each report required by this section shall include all reportable transactions occurring since the most recent prior report; however, duplicate reporting is not required by this section. A political action committee or principal campaign committee that is required to file a daily report is not required to also file a weekly report for the week preceding an election specified in subdivision (b) (3) of subsection (a); a committee required to file a weekly report is not required to also file a monthly report in the month in which the election is held; and a committee required to file a monthly report is not required to also file an annual report

in the year in which the election is held. The monetary
balance in a report of each committee shall begin at the
monetary amount appearing in the most recent prior report.

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

"§17-5-9.

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"(a) All statements and reports, including amendments, required of principal campaign committees <u>and</u> <u>political action committees</u> under <u>the provisions of</u> this chapter shall be filed <u>electronically</u> with the Secretary of State <u>in the case of candidates for state office or state</u> <u>elected officials</u>, and in the case of candidates for local <u>office or local elected officials</u>, with the judge of probate of the county in which the office is sought for the 2016 <u>election cycle</u>.

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

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

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

"(e)(b) Commencing with the 2018 2024 municipal election cycle, all principal campaign committees and political action committees that file with the judge of probate, other than candidates for municipal office, shall

1	file	electronically	with	the	Secretary	of	State	pursuant	to
2	this	chapter.							

"§17-5-10.

- "(a) Each report or statement shall be preserved and a copy made available for public inspection by the Secretary of State or judge of probate, whichever is applicable.
- "(b) The date of filing of a report or statement filed pursuant to this chapter shall be deemed to be the date of receipt by the Secretary of State or judge of probate, as the case may be; provided, that any report or statement filed by certified or registered mail shall be deemed to be filed in a timely fashion if the date of the United States postmark stamped on such report or statement is the required filing date, and if such the report or statement is properly addressed with postage prepaid.

16 "\$17-5-11.

- 17 "The Secretary of State and the judge of probate 18 shall have the following duties:
 - "(1) To accept and file all reports and statements, including amendments, required by the provisions of this chapter to be filed with them and to accept any information voluntarily supplied that exceeds the requirements of this chapter.
- "(2) To make each statement and report filed by any principal campaign committee or political action committee or

elected official available for public inspection and copying during regular office hours, any such copying to be at the expense of the person requesting copies; except that any information copied from such reports or statements may not be sold or used by any political party, principal campaign committee, or political action committee for the purposes of soliciting contributions or for commercial purposes, without the express written permission of the candidate or the committee reporting such information.

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

"§17-5-19.1.

"(a) Commencing with the 2018 election cycle, the appropriate election official, based on the location of filing as required by Section 17-5-9, The Secretary of State shall levy an administrative a civil penalty against any person who fails to timely file a report required by this chapter and who does not remedy the filing of the report pursuant to subsection (h). The State Ethics Commission shall have the authority to may levy an administrative penalty against any

1	person who files a materiall	y inaccurate	report	required by
2	this chapter and who does no	t remedy the	filing	of the report
3	pursuant to subsection (q).			

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

- "(1) The lesser of three hundred dollars (\$300) or 10 percent of the amount of contributions or expenditures not properly reported for a first offense in an election cycle.
- "(2) The lesser of six hundred dollars (\$600) or 15 percent of the amount of contributions or expenditures not properly reported for a second offense in an election cycle.
- "(3) The lesser of one thousand two hundred dollars (\$1,200) or 20 percent of the amount of contributions or expenditures not properly reported for a third or subsequent offense in an election cycle.
- "(c) A fourth failure to timely or accurately file a report in an election cycle shall create a rebuttable presumption of intent to violate the reporting requirements of this chapter. The Secretary of State or judge of probate, as appropriate based on the location of filing, shall notify the Attorney General and the appropriate district attorney of all persons who violate the filing requirements four or more times in an election cycle.
- "(d) Upon imposition of a civil penalty pursuant to this section, the appropriate filing official Secretary of

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

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- "(e) Civil penalties levied shall be paid to the appropriate filing official Secretary of State within 45 days of the finality of any review. The Secretary of State or judge of probate, through his or her attorney, may institute proceedings to recover any penalties ordered pursuant to this section that are not paid by, or on behalf of, the person against whom they are levied and may collect necessary fees and costs associated with the collection action.
- "(f) All penalties collected by a judge of probate shall be distributed to that county's general fund, and all penalties collected by the Secretary of State shall be distributed to the State General Fund.
- "(g) A person who voluntarily files an amended report to correct an error in an otherwise timely filed report without being prompted by a filing official the Secretary of State shall not have committed an offense or be subjected to a civil penalty under this section, so long as, in the case of a candidate, the corrected report is filed prior to the election at issue, and so long as, in the case of a political action

committee, the corrected report is filed prior to the close of the calendar year.

- "(h) Failure to file a timely report shall not be considered an offense or subjected to a civil penalty pursuant to subsection (a) so long as it is the first failure by that candidate or political action committee for the election cycle and the report is filed within 48 hours of the time it was due.
- "(i) Any penalties assessed pursuant to this section may be paid with campaign funds.

11 "§17-5-19.2.

- "(a) Any person upon whom a civil penalty has been imposed pursuant to Section 17-5-19.1 may seek a review of such the penalty by filing a written notice with the Secretary of State or judge of probate no later than 14 days after the date on which notification of the imposition of the penalty was mailed to the person's last known address in accordance with Section 17-5-19.1. The Secretary of State or judge of probate shall refer such the review to the State Ethics Commission.
- "(b) The commission may set aside or reduce a civil penalty upon a showing of good cause. The person seeking review shall bear the burden of proof."

HB1.54

1	Section 2. This act shall become effective August 1,
2	2023, following its passage and approval by the Governor, or
3	its otherwise becoming law.

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3		Mac Matchen	
4		Speaker of the House of Represe	ntatives
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6	P	resident and Presiding Officer o	f the Senate
7		House of Representatives	
8 9 10	I heard was passed	ereby certify that the within Ac d by the House 01-APR-21.	t originated in
11 12 13		Jeff Woodard Clerk	
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16	Senate _	22-APR-21	Passed
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TIME 8:00 000

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Alabama Secretary Of State

Act Num...: 2021-314 Bill Num...: H-154

Recv'd 04/29/21 03:10pmSLF

	SENATE ACTION FRED. H-1 - 202	This Bill was referred to the Standing Committee of the Senate on $\mathcal{M} \mathcal{E} $	and was acted upon by susession and is by order or returned therefrom with a wiends)	by a vote of yeas 4 nays 2 abstai	DATE: 47	RF FAV RD 2 CAL		YEAS 38 NAYS PATRICK	PASSED PASSED AS AMENDED	And was ordered returned forthwith to the House. PATRICK HARRIS, Secretary	DATE: 20	
Prefile Date 1-21-21	HOUSE ACTION DATE: RD 1 RFD CAC	ľ	House to its standing committee on (DONMA) COMP > SUCH was acted upon by SUCH committee in acted upon by SUCH committee in acceptance in accep	_ + +	282		DATE: 203 203 RF RD 2 CAL	DATE: 20 RE-REFERRED RE-COMMITTED	Committee	I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the pill	YEAS 90 NAYS	JEFF WOODARD.
	PONSOR U. K. ++ O-SPONSORS	29	31	34	36	38	40	42	45	47	50	53