

LEGISLATIVE BILL 464

Approved by the Governor April 4, 2007

Introduced by Chambers, 11

FOR AN ACT relating to political accountability and disclosure; to amend sections 28-915.01 and 49-14,133, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-14,123, and 49-14,126, Revised Statutes Cumulative Supplement, 2006; to change enforcement provisions relating to the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-915.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-915.01 (1) A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he or she does not believe the statement to be true, is guilty of a Class I misdemeanor if the falsification:

(a) Occurs in an official proceeding; or
 (b) Is intended to mislead a public servant in performing his or her official function.

(2) A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he or she does not believe the statement to be true, is guilty of a Class II misdemeanor if the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.

(3) Subsections (4) ~~to~~ through (7) of section 28-915 shall apply to subsections (1) and (2) of this section.

(4) This section shall not apply to reports, statements, affidavits, or other documents made or filed pursuant to the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act.

Sec. 2. Section 49-1401, Revised Statutes Cumulative Supplement, 2006, is amended to read:

49-1401 Sections 49-1401 to 49-14,141 and section 4 of this act shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act.

Sec. 3. Section 49-14,123, Revised Statutes Cumulative Supplement, 2006, is amended to read:

49-14,123 In addition to any other duties prescribed by law, the commission shall:

(1) Prescribe and publish, after notice and opportunity for public comment, rules and regulations to carry out the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act pursuant to the Administrative Procedure Act;

(2) Prescribe forms for statements and reports required to be filed pursuant to the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act and furnish such forms to persons required to file such statements and reports;

(3) Prepare and publish one or more manuals explaining the duties of all persons and other entities required to file statements and reports by the acts and setting forth recommended uniform methods of accounting and reporting for such filings;

(4) Accept and file any reasonable amount of information voluntarily supplied that exceeds the requirements of the acts;

(5) Make statements and reports filed with the commission available for public inspection and copying during regular office hours and make copying facilities available at a cost of not more than fifty cents per page;

(6) Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

(7) Prepare and publish summaries of statements and reports filed with the commission and special reports and technical studies to further the purposes of the acts;

(8) Review all statements and reports filed with the commission in order to ascertain whether any person has failed to file a required statement or has filed a deficient statement;

(9) Preserve statements and reports filed with the commission for a period of not less than five years from the date of receipt;

(10) Issue and publish advisory opinions on the requirements of the acts upon the request of a person or government body directly covered or affected by the acts. Any such opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person or government body who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person or government body in the request for the opinion;

(11) Act as the primary civil ~~and criminal~~ enforcement agency for violations of the Nebraska Political Accountability and Disclosure Act and the rules or regulations promulgated thereunder; and act as the primary civil enforcement agency for violations of the Campaign Finance Limitation Act and the rules or regulations promulgated thereunder; ~~and act concurrently with the Attorney General in prosecuting criminal violations of the Campaign Finance Limitation Act;~~

(12) Receive all late filing fees, civil penalties, and interest imposed pursuant to the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act, seek the return of any amount as provided in section 32-1606, and seek the repayment of any amount as provided in section 32-1607 and remit all such funds to the State Treasurer for credit to the Campaign Finance Limitation Cash Fund; and

(13) Prepare and distribute to the appropriate local officials statements of financial interest, campaign committee organization forms, filing instructions and forms, and such other forms as the commission may deem appropriate.

Sec. 4. At any time after the commencement of a preliminary investigation, the commission may refer the matter of a possible criminal violation of the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act to the Attorney General for consideration of criminal prosecution. The fact of the referral shall not be subject to the confidentiality provisions of section 49-14,124.01. The Attorney General shall determine if a matter referred by the commission will be criminally prosecuted. If the Attorney General determines that a matter will be criminally prosecuted, he or she shall advise the commission in writing of the determination. If the Attorney General determines that a matter will not be criminally prosecuted, he or she shall advise the commission in writing of the determination. The fact of the declination to criminally prosecute shall not be subject to the confidentiality provisions of section 49-14,124.01.

Sec. 5. Section 49-14,126, Revised Statutes Cumulative Supplement, 2006, is amended to read:

49-14,126 (1) The commission, upon finding that there has been a violation of the Nebraska Political Accountability and Disclosure Act or any rule or regulation promulgated thereunder, ~~may begin civil or criminal prosecution for the imposition of civil or criminal penalties provided by the act. If the commission finds a violation of the act or any rule or regulation thereunder, it may issue an order requiring the violator to do one or more of the following:~~

- (a) Cease and desist violation;
- (b) File any report, statement, or other information as required; or
- (c) Pay a civil penalty of not more than two thousand dollars for each violation of the act, rule, or regulation.

(2) If the commission finds a violation of the Campaign Finance Limitation Act, the commission shall assess a civil penalty as required under section 32-1604, 32-1606.01, or 32-1612.

Sec. 6. Section 49-14,133, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,133 The Attorney General has concurrent jurisdiction with the commission to enforce the criminal provisions of the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act. The county attorney of the county in which a violation of the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act occurs shall have concurrent jurisdiction.

Sec. 7. Original sections 28-915.01 and 49-14,133, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-14,123, and 49-14,126, Revised Statutes Cumulative Supplement, 2006, are repealed.