

1 HB633  
2 168874-1  
3 By Representative Jones  
4 RFD: Ethics and Campaign Finance  
5 First Read: 07-MAY-15

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8 SYNOPSIS: Under existing law, there are certain  
9 criminal and civil penalties that may be charged or  
10 assessed against any person who violates the Fair  
11 Campaign Practice Act.

12 This bill would provide that any civil  
13 penalties for violation of the act would be  
14 assessed by the appropriate filing official.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 To amend Section 17-5-19, Code of Alabama 1975,  
21 relating to the Fair Campaign Practices Act; to provide that  
22 civil penalties for violations shall be assessed by the filing  
23 official.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 17-5-19 of the Code of Alabama  
26 1975, is amended to read as follows:

27 "§17-5-19.

1           "(a) Except as otherwise provided in this section, a  
2 person who intentionally violates any provision of this  
3 chapter shall be guilty, upon conviction, of a Class A  
4 misdemeanor.

5           "(b) A person who intentionally violates any  
6 reporting requirement of Sections 17-5-4, 17-5-5, or 17-5-8  
7 shall be guilty, upon conviction, of a Class A misdemeanor. A  
8 person's failure to promptly file a required report upon  
9 discovering or receiving notice from any person that the  
10 report has not been filed, or the failure to promptly correct  
11 an omission, error, or other discrepancy in a filed report  
12 upon discovering or receiving notice of the discrepancy, shall  
13 create a rebuttable presumption of intent to violate the  
14 applicable reporting requirement.

15           "(c) Any person who intentionally violates Section  
16 17-5-7 shall be guilty, upon conviction, of a Class B felony.

17           "(d) A person who fails to timely or accurately file  
18 any report required by this chapter shall be assessed a civil  
19 penalty of the greater of three hundred dollars (\$300) or ~~ten~~  
20 10 percent of the amount not properly reported for a first  
21 offense in an election cycle, six hundred dollars (\$600) or 15  
22 percent of the amount not properly reported for a second  
23 offense in an election cycle, and one thousand two hundred  
24 dollars (\$1,200) or 20 percent of the amount not properly  
25 reported for a third or subsequent offense in an election  
26 cycle. A fourth failure to timely or accurately file a report  
27 in an election cycle shall create a rebuttable presumption of

1 intent to violate the reporting requirements of this chapter.  
2 Civil penalties shall be assessed by and paid to the  
3 appropriate filing official. All penalties collected by a  
4 judge of probate shall be distributed to that county's general  
5 fund, and all penalties collected by the Secretary of State  
6 shall be distributed to the State General Fund. A person who  
7 voluntarily files an amended report to correct an error in an  
8 otherwise timely filed report, without being prompted by a  
9 filing official shall not be subjected to a civil penalty  
10 under this subsection, so long as, in the case of a candidate,  
11 the corrected report is filed prior to the election at issue,  
12 and so long as, in the case of a political action committee,  
13 the corrected report is filed prior to the election which the  
14 contribution was given to influence.

15 "(e) The Attorney General or district attorney for  
16 the appropriate jurisdiction may prosecute violations of this  
17 chapter. Venue for cases involving violations of this chapter  
18 shall be in the county in which the violation occurred or the  
19 county in which the alleged violator resides or is  
20 incorporated. If the alleged violator resides or is  
21 incorporated outside of the State of Alabama or if the  
22 violation or violations occurred outside the State of Alabama,  
23 venue shall be in Montgomery County.

24 "(f) No prosecution for violation of this chapter  
25 shall be commenced later than two years after the date of  
26 violation. Notwithstanding the foregoing, a prosecution

1 brought pursuant to Section 17-5-7 shall be commenced within  
2 four years after the commission of the offense."

3 Section 2. The Secretary of State may promulgate any  
4 rules necessary to implement Section 17-5-19, Code of Alabama  
5 1975, as amended by this act, pursuant to the Alabama  
6 Administrative Procedure Act.

7 Section 3. This act shall become effective on the  
8 immediately following its passage and approval by the  
9 Governor, or its otherwise becoming law.