

Union Calendar No. 342

105TH CONGRESS
2^D SESSION

H. R. 3748

[Report No. 105–606]

To amend the Federal Election Campaign Act of 1971 to authorize appropriations for the Federal Election Commission for fiscal year 1999, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1998

Mr. THOMAS introduced the following bill; which was referred to the Committee on House Oversight

JUNE 25, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 29, 1998]

A BILL

To amend the Federal Election Campaign Act of 1971 to authorize appropriations for the Federal Election Commission for fiscal year 1999, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “FEC Reauthorization*
 3 *Act of 1998”.*

4 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FED-**
 5 **ERAL ELECTION COMMISSION FOR FISCAL**
 6 **YEAR 1999.**

7 *Section 314 of the Federal Election Campaign Act of*
 8 *1971 (2 U.S.C. 439c) is amended—*

9 (1) *by striking “and \$9,400,000” and inserting*
 10 *“\$9,400,000”; and*

11 (2) *by striking the period at the end and insert-*
 12 *ing the following: “, and \$33,700,000 for the fiscal*
 13 *year ending September 30, 1999, of which \$2,800,000*
 14 *shall be available only if at least 4 members of the*
 15 *Commission vote not later than September 30, 1998,*
 16 *to adopt a re-prioritization plan for the purpose of*
 17 *improving enforcement procedures and preventing the*
 18 *unnecessary dismissal of appropriate enforcement ac-*
 19 *tions.”.*

20 **SEC. 3. APPOINTMENT AND SERVICE OF STAFF DIRECTOR**
 21 **AND GENERAL COUNSEL OF COMMISSION.**

22 (a) *APPOINTMENT; LENGTH OF TERM OF SERVICE.—*

23 (1) *IN GENERAL.—The first sentence of section*
 24 *306(f)(1) of the Federal Election Campaign Act of*
 25 *1971 (2 U.S.C. 437c(f)(1)) is amended by striking*
 26 *“by the Commission” and inserting the following: “by*

1 *an affirmative vote of not less than 4 members of the*
2 *Commission and may not serve for a term of more*
3 *than 4 consecutive years without reappointment in*
4 *accordance with this paragraph”.*

5 *(2) EFFECTIVE DATE.—The amendment made by*
6 *paragraph (1) shall apply with respect to any indi-*
7 *vidual serving as the staff director or general counsel*
8 *of the Federal Election Commission on or after Janu-*
9 *ary 1, 1999, without regard to whether or not the in-*
10 *dividual served as staff director or general counsel*
11 *prior to such date.*

12 *(b) TREATMENT OF INDIVIDUALS FILLING VACANCIES;*
13 *TERMINATION OF AUTHORITY UPON EXPIRATION OF*
14 *TERM.—Section 306(f)(1) of such Act (2 U.S.C. 437c(f)(1))*
15 *is amended by inserting after the first sentence the following*
16 *new sentences: “An individual appointed as a staff director*
17 *or general counsel to fill a vacancy occurring other than*
18 *by the expiration of a term of office shall be appointed only*
19 *for the unexpired term of the individual he or she succeeds.*
20 *An individual serving as staff director or general counsel*
21 *may not serve in any capacity on behalf of the Commission*
22 *after the expiration of the individual’s term unless re-*
23 *appointed in accordance with this paragraph.”.*

1 **SEC. 4. ALTERNATIVE PROCEDURES FOR IMPOSITION OF**
2 **PENALTIES FOR REPORTING VIOLATIONS.**

3 (a) *IN GENERAL.*—Section 309(a)(4) of the Federal
4 Election Campaign Act of 1971 (2 U.S.C. 437g(a)(4)) is
5 amended—

6 (1) in subparagraph (A)(i), by striking “clause
7 (ii)” and inserting “clause (ii) and subparagraph
8 (C)”; and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(C)(i) Notwithstanding subparagraph (A), in the case
12 of a violation of any requirement under this Act relating
13 to the reporting of receipts or disbursements, the Commis-
14 sion may—

15 “(I) find that a person committed such a viola-
16 tion on the basis of information obtained pursuant to
17 the procedures described in paragraphs (1) and (2);
18 and

19 “(II) based on such finding, require the person
20 to pay a civil money penalty in an amount deter-
21 mined under a schedule of penalties which is estab-
22 lished and published by the Commission and which
23 takes into account the amount of the violation in-
24 volved, the existence of previous violations by the per-
25 son, and such other factors as the Commission consid-
26 ers appropriate.

1 “(ii) *The Commission may not make any determina-*
 2 *tion adverse to a person under clause (i) until the person*
 3 *has been given written notice and an opportunity for the*
 4 *determination to be made on the record.*

5 “(iii) *Any person against whom an adverse determina-*
 6 *tion is made under this subparagraph may obtain a review*
 7 *of such determination in the district court of the United*
 8 *States for the district in which the person is found, resides,*
 9 *or transacts business, by filing in such court (prior to the*
 10 *expiration of the 30-day period which begins on the date*
 11 *the person receives notification of the determination) a*
 12 *written petition requesting that the determination be modi-*
 13 *fied or set aside.”.*

14 (b) *CONFORMING AMENDMENT.*—Section 309(a)(6)(A)
 15 of such Act (2 U.S.C. 437g(a)(6)(A)) is amended by striking
 16 “paragraph (4)(A)” and inserting “paragraph (4)”.

17 (c) *EFFECTIVE DATE.*—The amendments made by this
 18 section shall apply with respect to violations occurring on
 19 or after January 1, 1999.

20 **SEC. 5. STANDARD FOR INITIATION OF ACTIONS BY FEC.**

21 (a) *IN GENERAL.*—Section 309(a)(2) of the Federal
 22 Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is
 23 amended to read as follows:

24 “(2) *Not later than 90 days after the time for respond-*
 25 *ing to a complaint under paragraph (1) has elapsed for*

1 *all respondents, the general counsel of the Commission shall*
2 *provide a recommendation to the Commission regarding*
3 *whether there is sufficient or insufficient reason for the*
4 *Commission to investigate any violation alleged in the com-*
5 *plaint. If the Commission, upon receiving a complaint*
6 *under paragraph (1) (or on the basis of information*
7 *ascertained in the normal course of carrying out its super-*
8 *visory responsibilities), determines by an affirmative vote*
9 *of 4 of its members that it has a sufficient reason to inves-*
10 *tigate whether a person has committed (or is about to com-*
11 *mit) a violation of this Act or of chapter 95 or chapter 96*
12 *of the Internal Revenue Code of 1986, the Commission*
13 *(through its chair or vice chair) shall notify the person of*
14 *the alleged violation, and shall set forth in such notification*
15 *the factual and legal basis for such alleged violation. The*
16 *Commission shall make an investigation of such alleged vio-*
17 *lation (which may include a field investigation or audit)*
18 *in accordance with the provisions of this section.”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
20 *section (a) shall apply with respect to complaints filed on*
21 *or after January 1, 1999.*

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