

105TH CONGRESS
1ST SESSION

S. 446

To amend the Federal Election Campaign Act of 1971 to improve the enforcement capabilities of the Federal Election Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 1997

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to improve the enforcement capabilities of the Federal Election Commission, 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,*

3 **SECTION 1. FINDINGS AND DECLARATION.**

4 Congress finds and declares that—

5 (1) maintaining and improving the strength and
6 effectiveness of the Commission is essential to the
7 integrity of the Federal election system;

8 (2) the Commission was created in the wake of
9 the Watergate scandal to ensure the integrity of

1 Federal elections by overseeing Federal election dis-
 2 closure and enforcing Federal campaign finance law;

3 (3) the sharply increasing number of cases and
 4 the growing volume of financial activity is making it
 5 increasingly difficult for the Commission to fulfill its
 6 watchdog role in a timely and effective manner;

7 (4) the Commission finds itself without a suffi-
 8 cient budget and without the basic enforcement pow-
 9 ers that would enable the Commission to fulfill its
 10 watchdog role in a timely and effective manner; and

11 (5) Congress should provide the Commission
 12 with sufficient resources and authority to allow the
 13 Commission to carry out its duties.

14 **SEC. 2. FILING OF FEDERAL ELECTION CAMPAIGN RE-**
 15 **PORTS USING COMPUTERS AND FACSIMILE**
 16 **MACHINES.**

17 Section 302(a) of the Federal Election Campaign Act
 18 of 1971 (2 U.S.C. 434(a)) is amended by striking para-
 19 graph (11) and inserting at the end the following:

20 “(11)(A) The Commission may prescribe regu-
 21 lations under which persons required to file designa-
 22 tions, statements, and reports under this Act—

23 “(i) are required to maintain and file a
 24 designation, statement, or report for any cal-
 25 endar year in electronic form accessible by com-

puters if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

“(ii) may maintain and file a designation, statement, or report in that manner if not required to do so under regulations prescribed under clause (i).

“(B) The Commission shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

“(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.”.

SEC. 3. AUDITS BY THE FEDERAL ELECTION COMMISSION.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

1 (1) by inserting “(1)” before “The Commis-
2 sion”; and

3 (2) by adding at the end the following:

4 “(2) RANDOM AUDITS.—

5 “(A) IN GENERAL.—Notwithstanding para-
6 graph (1), the Commission may conduct ran-
7 dom audits and investigations to ensure vol-
8 untary compliance with this Act.

9 “(B) SELECTION OF SUBJECTS.—The ag-
10 gregate amount of contributions received by an
11 eligible Senate candidate as of the end of each
12 reporting period under section 304 shall meet
13 the requirement of paragraph (1).

14 “(C) LIMITATION.—The Commission shall
15 not conduct an audit or investigation of a can-
16 didate’s authorized committee under paragraph
17 (1) until the candidate is no longer a candidate
18 for the office sought by the candidate in an
19 election cycle.

20 “(D) APPLICABILITY.—This paragraph
21 does not apply to an authorized committee of a
22 candidate for President or Vice President sub-
23 ject to audit under section 9007 or 9038 of the
24 Internal Revenue Code of 1986.”.

1 (b) EXTENSION OF PERIOD DURING WHICH CAM-
 2 PAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the
 3 Federal Election Campaign Act of 1971 (2 U.S.C. 438(b))
 4 is amended by striking “6 months” and inserting “12
 5 months”.

6 **SEC. 4. AUTHORITY OF THE FEDERAL ELECTION COMMIS-**
 7 **SION TO SEEK INJUNCTION.**

8 Section 309(a) of the Federal Election Campaign Act
 9 of 1971 (2 U.S.C. 437g(a)) is amended—

10 (1) by adding at the end the following:

11 “(13)(A) If, at any time in a proceeding described
 12 in paragraph (1), (2), (3), or (4), the Commission believes
 13 that—

14 “(i) there is a substantial likelihood that a vio-
 15 lation of this Act is occurring or is about to occur;

16 “(ii) the failure to act expeditiously will result
 17 in irreparable harm to a party affected by the poten-
 18 tial violation;

19 “(iii) expeditious action will not cause undue
 20 harm or prejudice to the interests of others; and

21 “(iv) the public interest would be best served by
 22 the issuance of an injunction;

23 the Commission may initiate a civil action for a temporary
 24 restraining order or a preliminary injunction pending the

1 outcome of the proceedings described in paragraphs (1),
 2 (2), (3), and (4).

3 “(B) An action under subparagraph (A) shall be
 4 brought in the United States district court for the district
 5 in which the defendant resides, transacts business, or may
 6 be found, or in which the violation is occurring, has oc-
 7 curred, or is about to occur.”;

8 (2) in paragraph (7), by striking “(5) or (6)”
 9 and inserting “(5), (6), or (13)”; and

10 (3) in paragraph (11), by striking “(6)” and in-
 11 serting “(6) or (13)”.

12 **SEC. 5. INCREASE IN PENALTY FOR KNOWING AND WILL-**
 13 **FUL VIOLATIONS.**

14 Section 309(a)(5)(B) of the Federal Election Cam-
 15 paign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended
 16 by striking “the greater of \$10,000 or an amount equal
 17 to 200 percent” and inserting “the greater of \$15,000 or
 18 an amount equal to 300 percent”.

19 **SEC. 6. CIVIL PENALTIES FOR MINOR REPORTING VIOLA-**
 20 **TIONS.**

21 Section 309(a)(4)(A) of the Federal Election Cam-
 22 paign Act of 1971 (2 U.S.C. 437g(a)(4)(A)) is amended—

23 (1) in the first sentence of clause (i) by striking
 24 “clause (ii)” and inserting “clauses (ii) and (iii)”;
 25 and

1 (2) by adding at the end the following:

2 “(iii) MINOR REPORTING VIOLATIONS.—

3 “(I) DEFINITION OF MINOR REPORTING
4 VIOLATION.—The Commission shall by regula-
5 tion establish a definition of the term ‘minor re-
6 porting violation’ for the purposes of this
7 clause.

8 “(II) ASSESSMENT BY THE COMMISSION.—
9 After notice and hearing, the Commission may,
10 without following the procedure of subpara-
11 graph (A) or paragraph (5) or (6), assess a civil
12 penalty against a person that commits a minor
13 reporting violation.

14 “(III) SCHEDULE OF AMOUNTS OF CIVIL
15 PENALTIES.—The Commission shall by regula-
16 tion establish a schedule of the amounts (or
17 ranges of amounts) of civil penalties (not to ex-
18 ceed \$5,000 or an amount equal to the amount
19 of any contribution or expenditure involved in
20 the violation) that shall be assessed for dif-
21 ferent categories of minor reporting violations.

22 “(IV) CONSIDERATIONS.—In determining
23 the amounts of civil penalties, the Commission
24 shall consider the effect that a violation could
25 be expected to have on the conduct of an elec-

tion campaign or on the outcome of an election,
the previous compliance record of the violator,
and other appropriate factors.

“(V) LIMITATION.—The Commission shall
not assess a civil penalty under this clause with-
in 30 days before the date of an election.

“(VI) ENFORCEMENT AND JUDICIAL RE-
VIEW.—The Commission, acting through its
own attorneys, may bring a civil action in Unit-
ed States district court for payment of, and a
person against whom a civil penalty has been
assessed may bring a civil action in United
State district court to review, a civil penalty
under subclause (II). Paragraph (7) shall apply
to a civil action under this subclause.

“(VII) ELECTION OF REMEDY.—If the
Commission elects to proceed under this clause
against a person for a minor reporting viola-
tion, the Commission shall be precluded from
seeking enforcement with respect to that viola-
tion under any other provision of this Act or
other law.”.

1 **SEC. 7. FILING OF SENATE ELECTION REPORTS WITH THE**
 2 **FEDERAL ELECTION COMMISSION, RATHER**
 3 **THAN WITH THE SECRETARY OF THE SEN-**
 4 **ATE.**

5 (a) SECTION 302 AMENDMENTS.—Section 302 of the
 6 Federal Election Campaign Act of 1971 (2 U.S.C. 432)
 7 is amended by striking subsection (g) and inserting the
 8 following:

9 “(g) PLACE OF FILING.—All designations, state-
 10 ments, and reports required to be filed under this Act shall
 11 be filed with the Commission.”.

12 (b) SECTION 304 AMENDMENTS.—Section 304 of the
 13 Federal Election Campaign Act of 1971 (2 U.S.C. 434)
 14 is amended—

15 (1) in subsection (a)(6)(A), by striking “Sec-
 16 retary or the Commission” through “as appropriate”
 17 and inserting “Commission and Secretary of State”;
 18 and

19 (2) in the third sentence of subsection (c)(2),
 20 by striking “the Secretary or”.

21 (c) SECTION 311 AMENDMENTS.—Section 311(a)(4)
 22 of the Federal Election Campaign Act of 1971 (2 U.S.C.
 23 438(a)(4)) is amended by striking “Secretary or the”.

24 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

25 The Federal Election Campaign Act of 1971 is
 26 amended—

1 (1) by striking section 314 (2 U.S.C. 439c) and
2 inserting the following:

3 **“SEC. 314. [REPEALED].”;**

4 and

5 (2) by inserting after section 406 the following:

6 **“SEC. 407. AUTHORIZATION OF APPROPRIATIONS.**

7 “There are authorized to be appropriated to carry out
8 this Act and chapters 95 and 96 of the Internal Revenue
9 Code of 1986—

10 “(1) \$1,700,000 for fiscal year 1997 (in addi-
11 tion to appropriations made before the date of enact-
12 ment of this section, to be used in the investigation
13 of the extraordinary problems associated with the
14 1996 elections such as the making of contributions
15 by nonresident foreign nationals and the acceptance
16 of such contributions by candidates, the use of funds
17 not reported as contributions or expenditures to cir-
18 cumvent expenditure limits applicable to political
19 party committees, coordination with candidates in
20 the making of expenditures claimed to be independ-
21 ent expenditures, and expenditures on advertise-
22 ments claimed to be purely issue-oriented that clear-
23 ly suggested support of or opposition to particular
24 candidates) ; and

1 “(2) \$34,200,000 for fiscal year 1998.”.

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