

2017 -- H 6115

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO ELECTIONS -- NOMINATION OF PARTY AND INDEPENDENT
CANDIDATES; RHODE ISLAND CAMPAIGN CONTRIBUTIONS AND EXPENDITURES
REPORTING; CRIMINAL OFFENSES --THEFT, EMBEZZLEMENT, FALSE PRETENSES,
AND MISAPPROPRIATIONS

Introduced By: Representatives Phillips, Solomon, Morin, Shanley, and Casey

Date Introduced: April 13, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-14-1 of the General Laws in Chapter 17-14 entitled "Nomination
2 of Party and Independent Candidates" is hereby amended to read as follows:

3 **17-14-1. Declarations of candidacy.**

4 (a) During the last consecutive Monday, Tuesday, and Wednesday in June in the even
5 years and during the thirty-ninth (39th) and fortieth (40th) days preceding a primary election for a
6 special election, or for an election regularly scheduled for a time other than the biennial general
7 statewide election, each voter desiring to be a candidate at the upcoming primary or an
8 independent candidate on final nomination papers shall, on a form that shall be provided by the
9 secretary of state, file a declaration of his or her candidacy not later than four (4:00) p.m. of the
10 last day for the filing with the secretary of state for congressional and statewide general offices,
11 or with the local board of the place of the candidate's voting residence for general assembly, or
12 state committee or senatorial and representative district committee or with the appropriate local
13 board for local officers. The declaration shall be signed by the candidate as his or her name
14 appears on the voting list. The signature shall be accepted as valid if it can be reasonably
15 identified to be the name and signature of the voter it purports to be. A variation of the voter's
16 signature by the insertion or omission of identifying titles or by the substitution of initials for the
17 first or middle names of both shall not in itself be grounds for invalidation of the signature. The

1 declaration shall also include the following information:

2 (1) The candidate's name as it appears on the voting list, subject to the same provisions as
3 relate to the voter's signature on the declaration;

4 (2) The address as it appears on the voting list, provided that an address which is
5 substantially the same as the address on the voting list shall be valid;

6 (3) The party declaration if seeking to run in a party primary;

7 (4) The office sought;

8 (5) The place and date of birth;

9 (6) The length of residence in the state and in the town or city where he or she resides;

10 (7) A certification that he or she is neither serving a sentence, including probation or
11 parole, for which he or she was imprisoned upon final conviction of a felony imposed on any date
12 nor serving any sentence, whether incarcerated or suspended, on probation or parole, upon final
13 conviction of a felony committed after November 5, 1986;

14 (8) A certification that he or she has not been lawfully adjudicated to be non compos
15 mentis, of unsound mind;

16 (9) If a person is a candidate for state or local office, a certification that, as of the date of
17 declaration, they have no campaign finance reports due on or after July 1, 2017, to the state board
18 of elections pursuant to chapter 25 of title 17 that are overdue by more than thirty (30) days;

19 (10) If a person is a candidate for state or local office, a certification that, as of the date of
20 declaration, they have no unpaid fines, fees or penalties assessed on or after July 1, 2017, by the
21 state board of elections pursuant to its authority granted under chapter 7 of title 17 or chapter 25
22 of title 17 that are overdue by more than thirty (30) days, provided that any fines, fees or penalties
23 that are subject to payment plans as agreed to with the state board of elections, or being appealed
24 pending determination by the state board of elections or a court of competent jurisdiction, or for
25 which the time to appeal to the state board of elections or a court of competent jurisdiction has
26 not expired shall not be considered overdue for purposes of this provision;

27 ~~(9)~~(11) In the case of candidates for party nomination, a certification that he or she has
28 not been a member of a political party other than the declared party within ninety (90) days of the
29 filing date; and

30 ~~(10)~~(12) If a person is a candidate for a state or local office, a certification that the person
31 has not within the preceding three (3) years served any sentence, incarcerated or suspended, on
32 probation or parole, for a crime committed after November 5, 1986, upon a plea of nolo
33 contendere or guilty or upon a conviction of a felony or for a misdemeanor for which a sentence
34 of imprisonment for six (6) months or more, whether suspended or to be served as imposed.

1 (b) No person shall be eligible to be a candidate or be eligible to be elected to public
2 office if their declaration of candidacy contains any false or materially inaccurate certification or
3 information or if the declaration of candidacy fails to list any required certification or
4 information.

5 SECTION 2. Sections 17-25-11, 17-25-13 and 17-25-27 of the General Laws in Chapter
6 17-25 entitled "Rhode Island Campaign Contributions and Expenditures Reporting" are hereby
7 amended to read as follows:

8 **17-25-11. Dates for filing of reports by treasurers of candidates or of committees.**

9 (a) During the period between the appointment of the campaign treasurer for state and
10 municipal committees and political action committees, or in the case of an individual the date on
11 which the individual becomes a "declared or undeclared candidate" as defined in § 17-25-3(2),
12 except when the ninety-day (90) reporting period ends less than forty (40) days prior to an
13 election in which case the ninety-day (90) report shall be included as part of the report required to
14 be filed on the twenty-eighth (28th) day next preceding the day of the primary, general, or special
15 election pursuant to subdivision (2) of this subsection, and the election, with respect to which
16 contributions are received or expenditures made by him or her in behalf of, or in opposition to, a
17 candidate, the campaign treasurer of a candidate, a political party committee, or a political action
18 committee shall file a report containing an account of contributions received, and expenditures
19 made, on behalf of, or in opposition to, a candidate:

20 (1) At ninety-day (90) intervals commencing on the date on which the individual first
21 becomes a candidate, as defined in § 17-25-3(2);

22 (2) In a contested election, on the twenty-eighth (28th) and seventh (7th) days next
23 preceding the day of the primary, general, or special election; provided, that in the case of a
24 primary election for a special election where the twenty-eighth (28th) day next preceding the day
25 of the primary election occurs prior to the first day for filing declarations of candidacy pursuant to
26 § 17-14-1, the reports shall be due on the fourteenth (14th) and seventh (7th) days next preceding
27 the day of the primary election for the special election; and

28 (3) A final report on the twenty-eighth (28th) day following the election. The report shall
29 contain:

30 (i) The name and address and place of employment of each person from whom
31 contributions in excess of a total of one hundred dollars (\$100) within a calendar year were
32 received;

33 (ii) The amount contributed by each person;

34 (iii) The name and address of each person to whom expenditures in excess of one

1 hundred dollars (\$100) were made; and

2 (iv) The amount and purpose of each expenditure.

3 (b) Concurrent with the report filed on the twenty-eighth (28th) day following an
4 election, or at any time thereafter, the campaign treasurer of a candidate, or political party
5 committee, or political action committee, may certify to the board of elections that the campaign
6 fund of the candidate, political party committee, or political action committee having been
7 instituted for the purposes of the past election, has completed its business and been dissolved or,
8 in the event that the committee will continue its activities beyond the election, that its business
9 regarding the past election has been completed. The certification shall be accompanied by a final
10 accounting of the campaign fund, or of the transactions relating to the election, including the final
11 disposition of any balance remaining in the fund at the time of dissolution or the arrangements
12 that have been made for the discharge of any obligations remaining unpaid at the time of
13 dissolution.

14 (c) (1) Once the campaign treasurer certifies that the campaign fund has completed its
15 business and been dissolved, no contribution that is intended to defray expenditures incurred on
16 behalf of, or in opposition to, a candidate during the campaign can be accepted. Until the time
17 that the campaign treasurer certifies that the campaign fund has completed its business and been
18 dissolved, the treasurer shall file reports containing an account of contributions received and
19 expenditures made at ninety-day (90) intervals commencing with the next quarterly report
20 following the election; however, the time to file under this subsection shall be no later than the
21 last day of the month following the ninety-day (90) period, except when the last day of the month
22 filing deadline following the ninety-day (90) reporting period occurs less than twenty-eight (28)
23 days before an election, in which case the report shall be filed pursuant to the provisions of
24 subdivisions (a)(1) and (2) of this section. Provided, however, if the last day of the month falls on
25 a weekend or a holiday, the report shall be due on the following business day.

26 (2) In addition to the reports required pursuant to this section, a candidate or office holder
27 shall also file with the board of elections a paper copy of the account statement from the office
28 holder's campaign account, which account statement shall be the next account statement issued by
29 their financial institution after the filing of the fourth quarterly campaign expense report. The
30 account statement shall be submitted to the board within thirty (30) days of its receipt by the
31 candidate, officeholder, treasurer, or deputy treasurer. The account statement shall not be deemed
32 a public record pursuant to the provisions of chapter 2 of title 38. The board of elections, its
33 agents, and employees shall not publish, deliver, copy, or disclose, to any person or entity any
34 account statement or information contained therein for any candidate, former candidate,

1 officeholder, party, or political action committee. Provided, as to state and municipal political
2 parties, the requirements of this subsection (c)(2) shall apply to the annual report required
3 pursuant to § 17-25-7.

4 (d) (1) There shall be no obligation to file the reports of expenditures required by this
5 section on behalf of, or in opposition to, a candidate if the total amount to be expended in behalf
6 of the candidacy by the candidate, by any political party committee, by any political action
7 committee, or by any person shall not in the aggregate exceed one thousand dollars (\$1,000).

8 (2) However, even though the aggregate amount expended on behalf of the candidacy
9 does not exceed one thousand dollars (\$1,000), reports must be made listing the source and
10 amounts of all contributions in excess of a total of one hundred dollars (\$100) from any one
11 source within a calendar year. Even though the aggregate amount expended on behalf of the
12 candidacy does not exceed one thousand dollars (\$1,000) and no contribution from any one
13 source within a calendar year exceeds one hundred dollars (\$100), the report shall state the
14 aggregate amount of all contributions received. In addition, the report shall state the amount of
15 aggregate contributions that were from individuals, the amount from political action committees,
16 and the amount from political party committees.

17 (e) On or before the first date for filing contribution and expenditure reports, the
18 campaign treasurer may file a sworn statement that the treasurer will accept no contributions nor
19 make aggregate expenditures in excess of the minimum amounts for which a report is required by
20 this chapter. Thereafter, the campaign treasurer shall be excused from filing all the reports for that
21 campaign, other than the final report due on the twenty-eighth (28th) day following the election.

22 (f) A campaign treasurer must file a report containing an account of contributions
23 received and expenditures made at the ninety-day (90) intervals provided for in subsection (c) of
24 this section for any ninety-day (90) period in which the campaign received contributions in excess
25 of a total of one hundred dollars (\$100) within a calendar year from any one source and/or made
26 expenditures in excess of one thousand dollars (\$1,000) within a calendar year; however, the time
27 to file under this subsection shall be no later than the last day of the month following the ninety-
28 day (90) period, except when the last day of the month filing deadline following the ninety-day
29 (90) reporting period occurs less than twenty-eight (28) days before an election, in which case the
30 report shall be filed pursuant to the provisions of subdivisions (a)(1) and (2) of this section.
31 Provided, however, if the last day of the month falls on a weekend or a holiday, the report shall be
32 due on the following business day.

33 (g) (1) The board of elections may, for good cause shown and upon the receipt of a
34 written or electronic request, grant a seven-day (7) extension for filing a report; provided, that the

1 request must be received no later than the date upon which the report is due to be filed.

2 (2) Any person or entity required to file reports with the board of elections pursuant to
3 this section and who or that has not filed the report by the required date, unless granted an
4 extension pursuant to subdivision (1) of this subsection, shall be fined ~~twenty-five dollars~~
5 ~~(\$25.00)~~ one hundred dollars (\$100). Notwithstanding any of the provisions of this section, the
6 board of elections shall have the authority to waive late filing fees for good cause shown.

7 (3) The board of elections shall send a notice of non-compliance, by certified mail, to any
8 person or entity who or that fails to file the reports required by this section. A person or entity
9 who or that is sent a notice of non-compliance and fails to file the required report within seven (7)
10 days of the receipt of the notice, shall be fined ~~two dollars (\$2.00)~~ ten dollars (\$10.00) per day
11 from the day of receipt of the notice of non-compliance until the day the report has been received
12 by the state board, up to one thousand dollars (\$1,000) in fines per report. Notwithstanding any of
13 the provisions of this section, the board of elections shall have the authority to waive late filing
14 fees for good cause shown.

15 **17-25-13. Penalties.**

16 (a) Any person who willfully and knowingly violates the provisions of this chapter shall,
17 upon conviction, be guilty of a misdemeanor and shall be fined not more than one thousand
18 dollars (\$1,000) per violation.

19 (b) The state board may fine any person or entity who violates the provisions of this
20 chapter in an amount not more than ~~one hundred dollars (\$100)~~ five hundred dollars (\$500) per
21 violation.

22 (c) Fines, fees and penalties imposed by the state board for violations of this chapter shall
23 be paid for by the candidate, officeholder or entity against whose campaign the fines, fees or
24 penalties have been levied. Fines, fees and penalties levied by the state board pursuant to this
25 chapter shall not be paid for from contributions or funds available in a campaign account.

26 (d) There is hereby created within the general fund a restricted receipt account to be
27 known as the "board of elections fines and penalties account." All fines, penalties, and judgments
28 collected by the board of elections shall be deposited into this account and the funds shall be used
29 to support the board's auditing, compliance and enforcement activities.

30 **17-25-27. Post-audit of accounts -- Publication.**

31 (a) The board may conduct a post-audit of all accounts and transactions for any election
32 cycle and may conduct any other special audits and post-audits that it may deem necessary. The
33 board shall publish a summary of the reports filed by candidates for general office pursuant to the
34 public financing provision of this chapter on or before April 1 of the year following any year in

1 which elections are held for statewide elective office.

2 (b) By no later than January 1, 2018, the board shall select a statistically random sample
3 of at least twelve and one-half percent (12.5%) of candidates for general office who raised or
4 expended more than ten thousand dollars (\$10,000) during either year of the 2016 election cycle,
5 and at least twelve and one-half percent (12.5%) of other candidates who raised or expended
6 more than ten thousand dollars (\$10,000) during either year of the 2016 election cycle, and at
7 least at least twelve and one-half percent (12.5%) of political action committees which raised or
8 expended more than ten thousand dollars (\$10,000) in either year during the 2016 cycle. The
9 board shall conduct a post-audit of each selected candidate and political action committee by
10 December 31, 2018. In conducting such a post-audit, the board shall review at least two (2) years
11 of records for each candidate and political action committee that has been active for at least two
12 (2) years.

13 (c) Beginning in January 2019 and in the January of each odd number year thereafter, the
14 board shall select a statistically random sample of at least twenty-five percent (25%) of
15 candidates for general office who raised or expended more than ten thousand dollars (\$10,000) in
16 either year of the previous election cycle, and at least twenty-five percent (25%) of other
17 candidates who raised or expended more than ten thousand dollars (\$10,000) during either year of
18 the previous election cycle, and at least twenty-five percent (25%) of political action committees
19 which raised or expended more than ten thousand dollars (\$10,000) during either year of the
20 previous election cycle. The board shall conduct a post-audit of each selected candidate and
21 political action committee by the end of the following even number year. In conducting such a
22 post-audit, the board shall review at least two (2) years of records for each candidate and political
23 action committee that has been active for at least two (2) years.

24 SECTION 3. Section 17-25.2-5 of the General Laws in Chapter 17-25.2 entitled "Ballot
25 Question Advocacy and Reporting" is hereby amended to read as follows:

26 **17-25.2-5. Reporting by ballot question advocates.**

27 (a) Every ballot-question advocate shall file periodic reports signed by an individual
28 responsible for its contents on a form prescribed by the board of elections setting forth the name
29 and address of the ballot-question advocate, including any other name under which the ballot-
30 question advocate conducts ballot-question advocacy, the name and address of the person filing
31 the report; and

32 (1) The name, address and, if applicable, the place of employment of each person making
33 a contribution or contributions that in the aggregate exceed one thousand-eight hundred dollars
34 (\$1,800) per election cycle to a ballot-question advocate for purposes of ballot question advocacy

1 and the amount contributed by each person or source; provided, however, this information shall
2 be reported only if:

3 (i) The contributions received by a ballot-question advocate are solicited in any way,
4 including by written, electronic, or verbal means, by the ballot-question advocate specifically for
5 ballot-question advocacy; or

6 (ii) The contributions were specifically designated by the contributor for ballot-question
7 advocacy; or

8 (iii) The ballot question advocate knew or had reason to know that the contributor
9 intended or expected that the majority of the contributions be used for ballot question advocacy;
10 and

11 (2) The name and address of every person or entity receiving an expenditure for ballot-
12 question advocacy, which in the aggregate exceeds one hundred dollars (\$100), the amount of
13 each expenditure for ballot-question advocacy, and the total amount of expenditures for ballot-
14 question advocacy made by the ballot-question advocate as of the last report date; and

15 (3) A statement of the position of the ballot-question advocate in support of or opposition
16 to the ballot-question; and

17 (4) The names and addresses of all identified members or endorsing organizations,
18 corporations, and/or associations that authorize the ballot-question advocate to represent to the
19 public that they support the positions of the ballot-question advocate; and

20 (5) The name and address of at least one of the officers of the ballot question advocate, if
21 any, or one individual that is responsible for the ballot question advocate's compliance with the
22 provisions of this chapter.

23 (b) The first report must be filed by a ballot-question advocate for the period beginning
24 when the ballot-question advocate expends a cumulative total that exceeds one thousand dollars
25 (\$1,000) for ballot-question advocacy and ending the last day of the first full month following
26 such date, to be filed with the board of elections due no later than seven (7) days after the end of
27 the month. A ballot-question advocate must thereafter file calendar month reports with the board
28 of elections due no later than seven (7) days after the end of the month; provided, that in lieu of
29 filing for the last full calendar month preceding the ballot question election, a report must be filed
30 due no later than seven (7) days before the election.

31 (c) A ballot-question advocate must file a final report of contributions received and
32 expenditures made for ballot-question advocacy no later than thirty (30) days after the election for
33 the ballot question is held subject to the provisions of § 17-25.2-6. All reports filed with the board
34 of elections must be received no later than 4:00 p.m. on the due date.

1 (d) (1) The board of elections may, for good cause shown and upon receipt of a written or
2 electronic request, grant a seven (7) day extension for filing a report; provided, however, that the
3 request must be received no later than the date and time upon which the report is due to be filed,
4 and further if the election for the ballot question is to be held less than seven (7) days from the
5 report due date and time, the report must be filed prior to the election date.

6 (2) Any ballot-question advocate required to file reports with the board of elections
7 pursuant to this section and who has not filed the report by the required date and time, unless
8 granted an extension by the board, shall be fined ~~twenty-five dollars (\$25.00)~~ one hundred dollars
9 (\$100).

10 (3) The board of elections shall send a notice of noncompliance, by certified mail, to the
11 ballot-question advocate who fails to file the reports required by this section. A ballot-question
12 advocate that has been sent a notice of noncompliance and fails to file the required report within
13 seven (7) days of the receipt of the notice shall be fined ~~two dollars (\$2.00)~~ ten dollars (\$10.00)
14 per day from the date of the receipt of the notice of noncompliance until the day the report is
15 received by the board of elections, up to one thousand dollars (\$1,000) in fines per report.
16 Notwithstanding any of the provisions of this section, the board of election shall have the
17 authority to waive late filing fees for good cause shown.

18 SECTION 4. Chapter 11-41 of the General Laws entitled "Theft, Embezzlement, False
19 Pretenses, and Misappropriation" is hereby amended by adding thereto the following section:

20 **11-41-31.1. Forfeiture of campaign contributions.**

21 (a) For the purposes of this section:

22 (1) "Specified crime" means any felony involving accepting or giving, or offering to give,
23 any bribe relating to a public office, the embezzlement of campaign contributions or public
24 money, extortion of theft of campaign contributions or public money, or conspiracy to commit
25 any of the above.

26 (2) "Convicted of any specified crime" means and includes being convicted of any
27 specified crime in this state and being convicted under the laws in any other state, the United
28 States of America, or any foreign government or country of a crime that, if committed in this
29 state, would be a specified crime, and for which the person has not received a pardon from the
30 governor of this state, the governor or other officer authorized to grant pardons in another state,
31 the president of the United States of America, or the officer of the foreign government or country
32 authorized to grant pardons in that foreign jurisdiction.

33 (3) "Candidate," "contributions," "person," "public office," and "state" have the same
34 meanings ascribed to them, respectively, in §17-25-3.

1 (4) "Pleads guilty or nolo contendere" shall not include any plea of nolo contendere
2 which does not constitute a conviction by virtue of §12-10-12 or §12-18-3.

3 (b) Notwithstanding any law to the contrary, if any candidate or former candidate is
4 convicted of, or pleads guilty or nolo contendere to, any specified crime, the judge, as part of any
5 sentence imposed, may order the forfeiture of any or all campaign contributions of the candidate
6 or former candidate to pay campaign debts and expenses already incurred, return donations to
7 contributors, donate to the general fund of this state, or a combination of the above.

8 (c) In determining whether campaign funds shall be forfeited, the court shall consider and
9 make a finding on the following factors:

10 (1) The severity of the specified crime of which the candidate or former candidate has
11 been convicted or to which the candidate or former candidate has pleaded guilty or nolo
12 contendere;

13 (2) The amount of monetary loss suffered by any person as a result of the subject
14 specified crime; and

15 (3) Any other factors that, in the judgment of the court, justice may require.

16 SECTION 5. Chapter 17-14 of the General Laws entitled "Nomination of Party and
17 Independent Candidates" is hereby amended by adding thereto the following section:

18 **17-14-18. Severability.**

19 If any provision of this chapter or its application to any person or circumstances is held
20 invalid, the invalidity shall not affect other provisions or applications of the chapter which can be
21 given effect without the invalid provision or application, and to this end the provisions of the
22 chapter are declared to be severable.

23 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO ELECTIONS -- NOMINATION OF PARTY AND INDEPENDENT
CANDIDATES; RHODE ISLAND CAMPAIGN CONTRIBUTIONS AND EXPENDITURES
REPORTING; CRIMINAL OFFENSES --THEFT, EMBEZZLEMENT, FALSE PRETENSES,
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1 This act would increase fines and penalties for failure to file timely campaign finance
2 reports; increase the amount of information required in a declaration of candidacy; require yearly
3 random audits of finance reports; and authorize the forfeiture of campaign funds for conviction of
4 crimes relating to public office service.

5 This act would take effect upon passage.

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