

Assembly Bill No. 442—Committee on
Legislative Operations and Elections

CHAPTER.....

AN ACT relating to campaign practices; setting forth factors that the Secretary of State may consider when determining whether good cause has been shown to waive a civil penalty imposed for filing late certain campaign reports; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires candidates, committees for political action, political parties, committees sponsored by political parties and certain other persons to file with the Secretary of State reports relating to certain campaign contributions, expenses and expenditures. (NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220) A person, committee or entity that is required to file a report is subject to a civil penalty, under a graduated schedule, for filing the report late, and the Secretary of State may waive that penalty for good cause shown. (NRS 294A.420) This bill sets forth factors that the Secretary of State may consider when determining whether good cause has been shown. The factors include: (1) the seriousness of the violation; (2) any history of violations committed by the person, committee or entity; (3) various mitigating factors; (4) whether the violation was inadvertent; (5) any knowledge or experience the person, committee or entity has with campaign practices; and (6) any other factor that the Secretary of State deems to be relevant.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person, committee or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.250, 294A.270, 294A.280, 294A.286 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person, committee or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person, committee or entity that violates an applicable provision of this chapter is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of



the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person, committee or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↳ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his or her office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section.

5. When considering whether to waive, pursuant to subsection 4, a civil penalty that would otherwise be imposed pursuant to subsection 3, the Secretary of State may consider, without limitation:

(a) The seriousness of the violation, including, without limitation, the nature, circumstances and extent of the violation;

(b) Any history of violations committed by the person, committee or entity against whom the civil penalty would otherwise be imposed;

(c) Any mitigating factor, including, without limitation, whether the person, committee or entity against whom the civil penalty would otherwise be imposed reported the violation, corrected the violation in a timely manner, attempted to correct the violation or cooperated with the Secretary of State in resolving the situation that led to the violation;

(d) Whether the violation was inadvertent;

(e) Any knowledge or experience the person, committee or entity has with the provisions of this chapter; and

(f) Any other factor that the Secretary of State deems to be relevant.



6. If the Secretary of State waives a civil penalty pursuant to ~~this~~ subsection ~~H~~ 4, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 2. This act becomes effective on July 1, 2013.

