

HOUSE BILL No. 1114

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9; IC 3-14-1-17.

Synopsis: Campaign finance. Provides that a person, other than an individual, who makes a campaign contribution to a candidate for a legislative office must make the contribution to the election division of the secretary of state's office for deposit in the campaign contribution trust fund. Establishes the campaign contribution trust fund for deposits of contributions and appropriates money in the fund for purposes of distribution to candidates. Requires the election division to distribute campaign contributions from the fund to candidates for legislative offices weekly during general election years and quarterly in other
(Continued next page)

Effective: July 1, 1999.

Marendt

January 6, 1998, read first time and referred to Committee on Elections and Apportionment.



Digest Continued

years. Provides that the election division may not disclose to the candidate or the candidate's committee the identity of a person who makes a contribution to the candidate. Provides that information that would: (1) identify a person who makes a contribution; (2) disclose the amount of money contributed by a person; or (3) disclose the name of a candidate to whom a person makes a contribution is confidential. Provides exceptions to the confidentiality requirement for state employees and employees of the person who makes the contribution for accounting or auditing purposes or for decision making purposes of the contributor. Provides that violation of the confidentiality provisions is a Class A misdemeanor and a Class D felony if the information is disclosed to a candidate for a legislative office or the treasurer of the candidate's committee. Increases the civil penalty for late filing of campaign finance reports from \$50 per day to \$500 for the first day the report is late and \$200 per day for each day after the first day the report is late. Removes the cap on civil penalties imposed for delinquent campaign finance reports.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1114

A BILL FOR AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-9-2.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1999]:
4 **Chapter 2.5. Contributions to Candidates for Legislative
5 Office**
6 **Sec. 1. (a) This chapter applies only to contributions to
7 candidates for a legislative office.**
8 **(b) This chapter does not apply to an individual who makes a
9 contribution.**
10 **Sec. 2. As used in this chapter, "fund" refers to the campaign
11 contribution trust fund established by section 6 of this chapter.**
12 **Sec. 3. A person who wants to make a contribution to a
13 candidate for a legislative office must send the contribution to the
14 election division for deposit in the fund.**
15 **Sec. 4. The following information must be included with a**



1 contribution made under section 3 of this chapter:

- 2 (1) The name of the person making the contribution.
 3 (2) The mailing address of the person making the
 4 contribution.
 5 (3) The amount of the contribution.
 6 (4) The name of the candidate to whom the contribution is
 7 made.

8 Sec. 5. (a) The election division shall return a contribution to
 9 the person making the contribution if either of the following
 10 applies:

- 11 (1) The information required by section 4 of this chapter is
 12 not complete.
 13 (2) The person is prohibited by this title from making the
 14 contribution to the candidate.

15 (b) If the election division is unable to determine the name or
 16 address of the person making the contribution, the election division
 17 shall deposit the contribution in the campaign finance enforcement
 18 account established by IC 3-6-4.1-24.

19 Sec. 6. (a) The campaign contribution trust fund is established.

20 (b) The election division shall administer the fund.

21 (c) The expenses of administering the fund shall be paid from
 22 money in the fund.

23 (d) The treasurer of state shall invest the money in the fund
 24 not currently needed to meet the obligations of the fund in the same
 25 manner as other public trust funds may be invested. Interest that
 26 accrues from these investments shall be deposited in the fund.

27 (e) Money in the fund at the end of a state fiscal year does not
 28 revert to the state general fund.

29 (f) The election division shall deposit into the fund all
 30 contributions made under this chapter that have not been returned
 31 under section 5 of this chapter. The money in the fund is
 32 appropriated for the purposes of this chapter.

33 Sec. 7. (a) On the first business day of April, July, and October
 34 of an odd-numbered year and on the first business day of January
 35 of an even-numbered year, the election division shall send to each
 36 candidate for a legislative office the total amount of contributions
 37 made to the candidate under this chapter during the previous three
 38 (3) months.

39 (b) Except as provided in subsection (a), on the first business
 40 day of each week during an even-numbered year, the election
 41 division shall send to each candidate for a legislative office the total
 42 amount of contributions made to the candidate under this chapter



1 during the previous week. The election division shall send each
 2 candidate who did not receive contributions during the previous
 3 week a notice that the commission did not receive any
 4 contributions for the candidate during the previous week.

5 (c) The election division may not disclose to a candidate or the
 6 candidate's committee the identity of a person who makes a
 7 contribution to the candidate under this chapter.

8 **Sec. 8. (a) The following information is confidential and may**
 9 **not be disclosed:**

10 (1) Information that would identify a person who makes a
 11 contribution under this chapter.

12 (2) The amount of money contributed by a person under this
 13 chapter.

14 (3) The name of a candidate to whom a person makes a
 15 contribution under this chapter.

16 (b) This section does not prohibit the following:

17 (1) The election division from disclosing statistical
 18 information that does not disclose information described in
 19 subsection (a).

20 (2) Employees of the election division communicating
 21 information described in subsection (a) to other employees of
 22 the election division.

23 (3) Employees of the state having access to the information
 24 for accounting or auditing purposes.

25 (4) Employees of the person making the contribution from
 26 having access to the information for any of the following
 27 purposes:

28 (A) Accounting.

29 (B) Auditing.

30 (C) Decision making for the person.

31 (5) The reporting of information required by IC 3-9-5-14.

32 SECTION 2. IC 3-9-4-16, AS AMENDED BY P.L.3-1997,
 33 SECTION 196, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) In addition to any other
 35 penalty imposed, a person who does any of the following is subject to
 36 a civil penalty under this section:

37 (1) Fails to file with the election division a report in the manner
 38 required under IC 3-9-5.

39 (2) Fails to file a statement of organization required under
 40 IC 3-9-1.

41 (3) Is a committee or a member of a committee who disburses or
 42 expends money or other property for any political purpose before



- 1 the money or other property has passed through the hands of the
 2 treasurer of the committee.
- 3 (4) Makes a contribution other than to a committee subject to
 4 this article or to a person authorized by law or a committee to
 5 receive contributions on the committee's behalf.
- 6 (5) Is a corporation or labor organization that exceeds any of the
 7 limitations on contributions prescribed by IC 3-9-2-4.
- 8 (6) Makes a contribution in the name of another person.
- 9 (7) Accepts a contribution made by one (1) person in the name
 10 of another person.
- 11 (8) Is not the treasurer of a committee subject to this article, and
 12 pays any expenses of an election or a caucus except as
 13 authorized by this article.
- 14 (9) Commingles the funds of a committee with the personal
 15 funds of an officer, a member, or an associate of the committee.
- 16 (10) Wrongfully uses campaign contributions in violation of
 17 IC 3-9-3-4.
- 18 (11) Violates IC 3-9-2-12.
- 19 (b) This subsection applies to a person who is subject to a civil
 20 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
 21 statement. If the commission determines that a person failed to file the
 22 amended report or statement of organization not later than noon five (5)
 23 days after being given notice under section 14 of this chapter, the
 24 commission may assess a civil penalty. The penalty is ten dollars (\$10)
 25 for each day the report is late after the expiration of the five (5) day
 26 period, not to exceed one hundred dollars (\$100) plus any investigative
 27 costs incurred and documented by the election division. The civil
 28 penalty limit under this subsection applies to each report separately.
- 29 (c) This subsection applies to a person who is subject to a civil
 30 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
 31 statement. If the commission determines that a person failed to file the
 32 report or statement of organization by the deadline prescribed under
 33 this article, the commission shall assess a civil penalty. The penalty is
 34 **fifty the sum of the following:**
- 35 (1) **Five hundred dollars (~~\$50~~) (\$500) for the first day the**
 36 **report or statement is late.**
- 37 (2) **Two hundred dollars (\$200) for each day after the first**
 38 **day the report or statement is late. with the afternoon of the final**
 39 **date for filing the report or statement being calculated as the first**
 40 **day. The civil penalty under this subsection may not exceed one**
 41 **thousand dollars (~~\$1,000~~) plus**
- 42 (3) Any investigative costs incurred and documented by the



1 election division.

2 **The civil penalty limit under this subsection applies to each report**
 3 **separately. The afternoon of the final date for filing the report or**
 4 **statement is considered as the first day.**

5 (d) This subsection applies to a person who is subject to a civil
 6 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
 7 (a)(10). If the commission determines that a person is subject to a civil
 8 penalty under subsection (a), the commission may assess a civil penalty
 9 of not more than one thousand dollars (\$1,000), plus any investigative
 10 costs incurred and documented by the election division.

11 (e) This subsection applies to a person who is subject to a civil
 12 penalty under subsection (a)(5). If the commission determines that a
 13 person is subject to a civil penalty under subsection (a)(5), the
 14 commission may assess a civil penalty of not more than three (3) times
 15 the amount of the contribution in excess of the limit prescribed by
 16 IC 3-9-2-4, plus any investigative costs incurred and documented by
 17 the election division.

18 (f) This subsection applies to a person who is subject to a civil
 19 penalty under subsection (a)(11). If the commission determines that a
 20 candidate or the candidate's committee has violated IC 3-9-2-12, the
 21 commission shall assess a civil penalty equal to the greater of the
 22 following, plus any investigative costs incurred and documented by the
 23 election division:

- 24 (1) Two (2) times the amount of any contributions received.
 25 (2) One thousand dollars (\$1,000).

26 (g) All civil penalties collected under this section shall be
 27 deposited with the treasurer of state in the campaign finance
 28 enforcement account.

29 (h) Proceedings of the commission under this section are subject
 30 to IC 4-21.5.

31 SECTION 3. IC 3-9-4-17, AS AMENDED BY P.L.3-1997,
 32 SECTION 197, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) In addition to any other
 34 penalty imposed, a person who does any of the following is subject to
 35 a civil penalty under this section:

- 36 (1) Fails to file with a county election board a report in the
 37 manner required under IC 3-9-5.
 38 (2) Fails to file a statement of organization required under
 39 IC 3-9-1.
 40 (3) Is a committee or a member of a committee who disburses or
 41 expends money or other property for any political purpose before
 42 the money or other property has passed through the hands of the



- 1 treasurer of the committee.
- 2 (4) Makes a contribution other than to a committee subject to
- 3 this article or to a person authorized by law or a committee to
- 4 receive contributions in the committee's behalf.
- 5 (5) Is a corporation or labor organization that exceeds any of the
- 6 limitations on contributions prescribed by IC 3-9-2-4.
- 7 (6) Makes a contribution in the name of another person.
- 8 (7) Accepts a contribution made by one (1) person in the name
- 9 of another person.
- 10 (8) Is not the treasurer of a committee subject to this article, and
- 11 pays any expenses of an election or a caucus except as
- 12 authorized by this article.
- 13 (9) Commingles the funds of a committee with the personal
- 14 funds of an officer, a member, or an associate of the committee.
- 15 (10) Wrongfully uses campaign contributions in violation of
- 16 IC 3-9-3-4.
- 17 (b) This subsection applies to a person who is subject to a civil
- 18 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
- 19 statement. If the county election board determines that a person failed
- 20 to file the report or a statement of organization not later than noon five
- 21 (5) days after being given notice under section 14 of this chapter, the
- 22 county election board may assess a civil penalty. The penalty is ten
- 23 dollars (\$10) for each day the report is late after the expiration of the
- 24 five (5) day period, not to exceed one hundred dollars (\$100) plus any
- 25 investigative costs incurred and documented by the board. The civil
- 26 penalty limit under this subsection applies to each report separately.
- 27 (c) This subsection applies to a person who is subject to a civil
- 28 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
- 29 statement. If the county election board determines that a person failed
- 30 to file the report or statement of organization by the deadline prescribed
- 31 under this article, the board shall assess a civil penalty. The penalty is
- 32 **fifty the sum of the following:**
- 33 **(1) Five hundred dollars (~~\$50~~) (\$500) for the first day the**
- 34 **report or statement is late.**
- 35 **(2) Two hundred dollars (\$200) for each day after the first**
- 36 **day the report or statement is late. with the afternoon of the**
- 37 **final date for filing the report or statement being calculated as**
- 38 **the first day. The civil penalty under this subsection may not**
- 39 **exceed one thousand dollars (~~\$1,000~~) plus**
- 40 **(3) Any investigative costs incurred and documented by the**
- 41 **board.**
- 42 **The civil penalty limit under this subsection applies to each report**



1 ~~separately.~~ **The afternoon of the final date for filing the report or**
 2 **statement is considered the first day.**

3 (d) This subsection applies to a person who is subject to a civil
 4 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
 5 (a)(10). If the county election board determines that a person is subject
 6 to a civil penalty under subsection (a), the board may assess a civil
 7 penalty of not more than one thousand dollars (\$1,000), plus any
 8 investigative costs incurred and documented by the board.

9 (e) This subsection applies to a person who is subject to a civil
 10 penalty under subsection (a)(5). If the county election board determines
 11 that a person is subject to a civil penalty under subsection (a)(5), the
 12 board may assess a civil penalty of not more than three (3) times the
 13 amount of the contribution in excess of the limit prescribed by
 14 IC 3-9-2-4, plus any investigative costs incurred and documented by
 15 the board.

16 (f) All civil penalties collected under this section shall be
 17 deposited with the county treasurer to be deposited by the county
 18 treasurer in a separate account to be known as the campaign finance
 19 enforcement account. The funds in the account are available, with the
 20 approval of the county fiscal body, to augment and supplement the
 21 funds appropriated for the administration of this article.

22 (g) Money in the campaign finance enforcement account does not
 23 revert to the county general fund at the end of a county fiscal year.

24 (h) Proceedings of the county election board under this section are
 25 subject to IC 4-21.5.

26 SECTION 4. IC 3-9-5-14, AS AMENDED BY P.L.253-1997(ss),
 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 1999]: Sec. 14. (a) As used in this section, "threshold
 29 contribution amount" refers to the following:

30 (1) For contributions made to a candidate's committee, a
 31 legislative caucus committee, or a political action committee,
 32 one hundred dollars (\$100).

33 (2) For contributions made to a regular party committee, two
 34 hundred dollars (\$200).

35 (b) The report of each committee's treasurer must disclose the
 36 following:

37 (1) The amount of cash on hand and the value of any investments
 38 made by the committee at the beginning of the reporting period.

39 (2) **This subdivision does not apply to the candidate's**
 40 **committee of a candidate for a legislative office.** The total sum
 41 of individual contributions including transfers-in, accepted by
 42 the committee during its reporting period.



- 1 **(3) This subdivision does not apply to the candidate's**
 2 **committee of a candidate for a legislative office.** The
 3 following information regarding each person who has made one
 4 (1) or more contributions within the year, in an aggregate
 5 amount that exceeds the threshold contribution amount in actual
 6 value to or for the committee, including the purchase of tickets
 7 for events such as dinners, luncheons, rallies, and similar
 8 fundraising events:
 9 (A) The full name of the person.
 10 (B) The full mailing address of the person making the
 11 contribution.
 12 (C) The person's occupation, if the person is an individual
 13 who has made contributions of at least one thousand dollars
 14 (\$1,000) during the calendar year.
 15 (D) The date and amount of each contribution.
- 16 (4) The name and address of each committee from which the
 17 reporting committee received, or to which that committee made,
 18 a transfer of funds, together with the amounts and dates of all
 19 transfers.
- 20 (5) If the reporting committee is a candidate's committee, the
 21 following information about each other committee that has
 22 reported expenditures to the reporting candidate's committee
 23 under section 15 of this chapter:
 24 (A) The name and address of the other committee.
 25 (B) The amount of expenditures reported by the other
 26 committee.
 27 (C) The date of the expenditures reported by the other
 28 committee.
 29 (D) The purpose of the expenditures reported by the other
 30 committee.
- 31 (6) Each loan to or from a person within the reporting period
 32 together with the following information:
 33 (A) The full names and mailing addresses of the lender and
 34 endorsers, if any.
 35 (B) The person's occupation, if the person is an individual
 36 who has made loans of at least one thousand dollars
 37 (\$1,000) during the calendar year.
 38 (C) The date and amount of the loans.
- 39 (7) The total sum of all receipts of the committee during the
 40 reporting period.
- 41 (8) The full name, mailing address, occupation, and principal
 42 place of business, if any, of each person other than a committee



1 to whom an expenditure was made by the committee or on behalf
2 of the committee within the year in an aggregate amount that:

3 (A) exceeds one hundred dollars (\$100), in the case of a
4 candidate's committee or political action committee; or

5 (B) exceeds two hundred dollars (\$200), in the case of a
6 regular party committee.

7 (9) The name, address, and office sought by each candidate for
8 whom any expenditure was made or a statement identifying the
9 public question for which any expenditure was made, including
10 the amount, date, and purpose of each expenditure.

11 (10) The full name, mailing address, occupation, and principal
12 place of business, if any, of each person to whom an expenditure
13 for personal services, salaries, or reimbursed expenses was made
14 within the year in an aggregate amount that:

15 (A) exceeds one hundred dollars (\$100), in the case of a
16 candidate's committee or political action committee; or

17 (B) exceeds two hundred dollars (\$200), in the case of a
18 regular party committee;

19 and that is not otherwise reported, including the amount, date,
20 and purpose of the expenditure.

21 (11) The total sum of expenditures made by the committee
22 during the reporting period.

23 (12) The amount and nature of debts owed by or to the
24 committee, and a continuous reporting of the debts after the
25 election at the times that the board requires until the debts are
26 extinguished.

27 **(13) If the candidate is a candidate for a legislative office, the**
28 **amount of money received under IC 3-9-2.5-7.**

29 SECTION 5. IC 3-14-1-17 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 1999]: **Sec. 17. (a) A person who knowingly or intentionally**
32 **violates IC 3-9-2.5-8(a) commits a Class A misdemeanor.**

33 **(b) Notwithstanding IC 5-14-3-10, the offense is a Class D**
34 **felony if the person discloses the information described in**
35 **IC 3-9-2.5-8(a) to the candidate for whom a contribution is made**
36 **or to the treasurer of that candidate's committee.**

