2021 Regular Session

HOUSE BILL NO. 176

BY REPRESENTATIVE THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ETHICS/FINANCIAL DISCLOS: Provides relative to the assessment of late fees and penalties relative to certain reports and financial disclosure statements required to be filed with the Board of Ethics

AN ACT

To amend and reenact R.S. 42:1124.4(A)(3), (B)(2), and (C) and 1157(A)(1)(a) and (4), relative to ethics; to provide relative to certain fees and penalties assessed by the Board of Ethics; to reduce the per-day penalty to be assessed against certain filers of required financial disclosure statements; to provide for a maximum amount to be assessed against certain filers; to give discretion to the board and its staff regarding the assessment of certain penalties against certain filers of required financial disclosure statements; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1124.4(A)(3), (B)(2), and (C) and 1157(A)(1)(a) and (4) are hereby amended and reenacted to read as follows:

§1124.4. Penalties

A.

* * *

(3) The board shall inform the person in the notice of delinquency that failure to file the statement, to disclose or accurately disclose the information, or to file an answer contesting the allegation by the deadline ~~shall~~ <u>may</u> result in the imposition of penalties as provided in Subsection C of this Section.

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B.

* * *

(2) If the person fails to file the statement, fails to provide the omitted information, fails to correct the inaccurate information, or fails to file a written answer prior to the deadline contained in the notice of delinquency, he ~~shall~~ may be subject to assessment of the penalties provided in Subsection C of this Section for each day until the statement, omitted information, corrected information, or written answer is filed.

* * *

C. Penalties ~~shall~~ may be assessed as follows:

(1) Five hundred dollars per day for financial statements required by R.S. 42:1124.

(2) One hundred dollars per day for statements required by R.S. 42:1124.2.

(3) Fifty dollars per day for statements required by R.S. 42:1124.2.1 ~~or 1124.3~~.

(4) Twenty-five dollars per day for statements required by R.S. 42:1124.3.

(5) The penalties to be assessed candidates shall be assessed according to which financial statement the candidate is required to file as provided in R.S. 18:1495.7.

* * *

§1157. Late filing fees

A.(1)(a) The staff of the Board of Ethics may assess and issue a final order for the payment of late filing fees, in accordance with rules adopted by the Board of Ethics, for any failure to timely file any report or statement due under any law under its jurisdiction as provided in R.S. 42:1132(C), R.S. 24:50 et seq., R.S. 49:71 et seq., or R.S. 33:9661 et seq. A final order issued pursuant to this Subparagraph shall be appealable to the Ethics Adjudicatory Board for an adjudicatory hearing conducted in accordance with R.S. 42:1141.5. For purposes of this Section, the phrase "late

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filing fees" shall include late filing fees and penalties as the case may be and the term "fee" shall include a fee or penalty as the case may be.

* * *

(4) Any late filing fees assessed by the Board of Ethics or its staff, for any failure to timely file any report or statement due, shall not exceed the following:

(a) If the fee is twenty-five dollars per day, the maximum shall be five hundred dollars.

(b) If the fee is forty dollars per day, the maximum shall be one thousand dollars.

~~(b)~~ (c) If the fee is fifty dollars per day, the maximum shall be one thousand five hundred dollars.

~~(c)~~ (d) If the fee is sixty dollars per day, the maximum shall be two thousand dollars.

~~(d)~~ (e) If the fee is one hundred dollars per day, the maximum shall be two thousand five hundred dollars.

~~(e)~~ (f) If the fee is two hundred dollars per day, the maximum shall be three thousand dollars.

~~(f)~~ (g) If the fee is five hundred dollars per day, the maximum shall be twelve thousand five hundred dollars.

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Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Makes the assessment of penalties for failure to file or failure to disclosure or accurately disclose information on a Tier 1, Tier 2, Tier 2.1, and Tier 3 personal financial disclosure statement optional under most circumstances rather than mandatory and reduces the penalties for Tier 3 filers from $50 to $25 per day and from $1500 to $500 maximum.

Present law (ethics code – R.S. 42:1124.4) provides that if a person fails to timely file a financial statement or if the person omits required information or if the Bd. of Ethics (board) has reason to believe information is inaccurate, the board is required to notify the person of such by sending a notice of delinquency. Present law further provides that the board shall inform the person in the notice of delinquency that failure to file the statement, to disclose or accurately disclose the information, or to file an answer contesting the allegation by the deadline shall result in the imposition of penalties and further specifies the penalties that shall be assessed.

Proposed law provides instead that the board and its staff are authorized to assess penalties rather than required to assess penalties and otherwise retains present law.

Present law provides that if the board finds in connection with a written answer that a person has failed to file or failed to disclosure or accurately disclose information on a personal financial disclosure statement, the person shall be subject to the assessment of penalties upon the board's determination and further provides that if the board finds that such failures were willful and knowing, the person shall be subject to prosecution for a misdemeanor. Proposed law retains present law.

Present law establishes a $50 per-day late fee with a maximum of $1,500 for persons required to file Tier 2.1 and Tier 3 financial disclosure statements.

Proposed law establishes a $25 per day late fee with a maximum of $500 for persons required to file Tier 3 financial disclosure statements and otherwise retains present law relative to Tier 2.1 financial disclosure statements. Proposed law further establishes a $500 maximum amount for any other reports or statements required to filed with the board with a per-day late fee of $25.

Proposed law specifies that for purposes of present and proposed law the phrase "late filing fees" includes late filing fees and penalties and the term "fee" includes a fee or penalty.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 42:1124.4(A)(3), (B)(2), and (C) and 1157(A)(1)(a) and (4))

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