

## SENATE BILL NO. 130

INTRODUCED BY T. MANZELLA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CAMPAIGN FINANCE COMPLAINTS; ~~REQUIRING THAT A PERSON ALLEGING CAMPAIGN FINANCE VIOLATIONS HAVE FIRSTHAND KNOWLEDGE OF THE VIOLATION;~~ REQUIRING THE COMMISSIONER TO PROVIDE POST THE RESPONSE OF A PERSON ACCUSED OF A CAMPAIGN FINANCE VIOLATION AND ALLOWING THE COMMISSIONER TO SPECIFY A DEADLINE FOR THE RESPONSE ALONG WITH A COMPLAINT MADE PUBLIC; PROVIDING DEFINITIONS; AND AMENDING SECTION 13-37-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Campaign finance complaint procedure -- firsthand knowledge-- response. ~~(1) An individual alleging a violation of Title 13, chapter 37, part 2 must have firsthand knowledge of the alleged violation.~~

~~(2) (a) Each A WRITTEN RESPONSE TO A~~ complaint alleging a violation of Title 13, chapter 37, part 2, ~~that is made available to the public must be accompanied by any written response by the person alleged to have made the violation submitted to the commissioner, including those complaints made available to the public~~ MUST BE POSTED on the commissioner's website. THE COMMISSIONER MAY SPECIFY A DEADLINE FOR THE WRITTEN RESPONSE BY THE PERSON WHO IS THE SUBJECT OF THE CAMPAIGN FINANCE COMPLAINT.

~~(b) If the commissioner determines that demands of individual privacy clearly exceed the merits of public disclosure, the commissioner may redact information contained in the response before making the response publicly available.~~

~~(3) As used in this section, "firsthand knowledge" means knowledge of a circumstance or fact gained through firsthand observation or personal experience. Firsthand knowledge does not include knowledge of a circumstance or fact gained through documents that are not in the individual's control and possession. Firsthand knowledge does not include knowledge of a circumstance or fact gained through information provided by other people.~~

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**Section 2.** Section 13-37-111, MCA, is amended to read:

~~"13-37-111. Investigative powers and duties -- recusal. (1) Except as provided in 13-35-240 and this section, the commissioner is responsible for investigating all of the alleged violations of the election laws contained in chapter 35 of this title or this chapter and in conjunction with the county attorneys is responsible for enforcing these election laws.~~

~~(2) The commissioner may:~~

~~(a) investigate all statements filed pursuant to the provisions of chapter 35 of this title or this chapter and except as provided by [section 1] shall investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of chapter 35 of this title or this chapter. Upon the submission acceptance of a written complaint by any individual, the commissioner shall investigate any other alleged violation of the provisions of chapter 35 of this title, this chapter, or any rule adopted pursuant to chapter 35 of this title or this chapter.~~

~~(b) inspect any records, accounts, or books that must be kept pursuant to the provisions of chapter 35 of this title or this chapter that are held by any political committee or candidate, as long as the inspection is made during reasonable office hours; and~~

~~(c) administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records that are relevant or material for the purpose of conducting any investigation pursuant to the provisions of chapter 35 of this title or this chapter.~~

~~(3) If the commissioner determines that considering a matter would give rise to the appearance of impropriety or a conflict of interest, the commissioner is recused from participating in the matter.~~

~~(4) The commissioner is recused from participating in any decision in which the commissioner is accused of violating 13-37-108 or any other ethical standard.~~

~~(5) (a) If a campaign finance or ethics complaint is filed in the office of the commissioner against the commissioner, a supervisor within the commissioner's office shall within 10 business days forward the complaint to the attorney general, who shall within 45 days appoint a deputy in the case of a finance complaint or a deputy and a hearings officer in the case of an ethics complaint to make a determination in the matter of~~

1 the complaint. The attorney general shall, to the extent practicable, ensure that there is no conflict of interest in  
2 the appointment of the deputy or hearings officer or in the provision of any legal advice to the office of the  
3 commissioner.

4 (b) A deputy appointed pursuant to this subsection must, in addition to complying with the  
5 requirements of subsection (6)(b), be an attorney licensed to practice law in Montana who is engaged in the  
6 private practice of law and who has liability insurance applicable to the purposes for which the deputy is  
7 appointed.

8 (c) If a complaint is filed against the commissioner, another employee in the office of the  
9 commissioner may not provide the commissioner with any information or documents concerning a complaint  
10 against the commissioner beyond that information or those documents normally provided to persons in matters  
11 before the commissioner.

12 (6) (a) If the commissioner is recused pursuant to this section, the commissioner shall, except as  
13 provided in subsection (5), appoint a deputy, subject to subsection (6)(b).

14 (b) The deputy:

15 (i) may not be an employee of the office of the commissioner;

16 (ii) must have the same qualifications as specified for the commissioner in 13-37-107;

17 (iii) with respect to only the specific matter from which the commissioner is recused, has the same  
18 authority, duties, and responsibilities as the commissioner would have absent the recusal; and

19 (iv) may not exercise any powers of the office that are not specifically related to the matter for which  
20 the deputy is appointed.

21 (7) (a) Except as provided in subsection (7)(b), the appointment of the deputy is effectuated by a  
22 contract between the commissioner and the deputy. A contract executed pursuant to this subsection (7) must  
23 specify the deputy's term of appointment, which must be temporary, the matter assigned to the deputy, the date  
24 on which the matter assigned must be concluded by the deputy, and any other items relevant to the deputy's  
25 appointment, powers, or duties.

26 (b) If a deputy is appointed pursuant to subsection (5), the appointment of the deputy is effectuated by  
27 a contract between the supervisor who forwarded the complaint to the attorney general and the deputy or the  
28 deputy and the hearings officer, but the contract is construed to be with the office of the commissioner."

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2 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
3 integral part of Title 13, chapter 37, part 1, and the provisions of Title 13, chapter 37, part 1, apply to [section 1].

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