

109TH CONGRESS
1ST SESSION

S. 391

To amend the Federal Election Campaign Act of 1971 to prohibit certain State election administration officials from actively participating in electoral campaigns.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2005

Mr. LAUTENBERG (for himself, Mr. KERRY, Mrs. BOXER, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to prohibit certain State election administration officials from actively participating in electoral campaigns.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Election Integ-
5 rity Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) chief State election administration officials
2 have served on political campaigns for Federal can-
3 didates whose elections those officials will supervise;

4 (2) such partisan activity by the chief State
5 election administration official, an individual
6 charged with certifying the validity of an election,
7 represents a fundamental conflict of interest that
8 may prevent the official from ensuring a fair and ac-
9 curate election;

10 (3) this conflict impedes the legal duty of chief
11 State election administration officials to supervise
12 Federal elections, undermines the integrity of Fed-
13 eral elections, and diminishes the people's confidence
14 in our electoral system by casting doubt on the re-
15 sults of Federal elections;

16 (4) the Supreme Court has long recognized that
17 Congress's power to regulate Congressional elections
18 under article I, section 4, clause 1 of the Constitu-
19 tion is both plenary and powerful; and

20 (5) the Supreme Court and numerous appellate
21 courts have recognized that the broad power given to
22 Congress over Congressional elections extends to
23 Presidential elections.

1 **SEC. 3. PROHIBITION ON CAMPAIGN ACTIVITIES BY ELEC-**
 2 **TION ADMINISTRATION OFFICIALS.**

3 (a) IN GENERAL.—Title III of the Federal Election
 4 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
 5 by inserting after section 319 the following new section:

6 “CAMPAIGN ACTIVITIES BY ELECTION OFFICIALS

7 “SEC. 319A. (a) PROHIBITION.—It shall be unlawful
 8 for a chief State election administration official to take
 9 an active part in political management or in a political
 10 campaign with respect to any election for Federal office
 11 over which such official has supervisory authority.

12 “(b) CHIEF STATE ELECTION ADMINISTRATION OF-
 13 FICIAL.—The term ‘chief State election administration of-
 14 ficial’ means the highest State official with responsibility
 15 for the administration of Federal elections under State
 16 law.

17 “(c) ACTIVE PART IN POLITICAL MANAGEMENT OR
 18 IN A POLITICAL CAMPAIGN.—The term ‘active part in po-
 19 litical management or in a political campaign’ means—

20 “(1) serving as a member of an authorized com-
 21 mittee of candidate for Federal office;

22 “(2) the use of official authority or influence
 23 for the purpose of interfering with or affecting the
 24 result of an election for Federal office;

1 “(3) the solicitation, acceptance, or receipt of
2 political contributions from any person on behalf of
3 a candidate for Federal office;

4 “(4) the solicitation or discouragement of the
5 participation in any political activity of any person;

6 “(5) engaging in partisan political activity on
7 behalf of a candidate for Federal office; and

8 “(6) any other act prohibited under section
9 7323(b)(4) of title 5, United States Code (other
10 than any prohibition on running for public office).”.

11 (b) ENFORCEMENT.—Section 309 of the Federal
12 Election Campaign Act of 1971 (42 U.S.C. 437g) is
13 amended by adding at the end the following new sub-
14 section:

15 “(d)(1) Notwithstanding paragraphs (1) through (5)
16 of subsection (a), any person who has knowledge of a vio-
17 lation of section 319A has occurred may file a complaint
18 with the Commission. Such complaint shall be in writing,
19 signed and sworn to by the person filing such complaint,
20 shall be notarized, and shall be made under penalty of per-
21 jury subject to the provisions of section 1001 of title 18,
22 United States Code. The Commission shall promptly no-
23 tify any person alleged in the complaint and the candidate
24 with respect to whom a violation is alleged, and shall give
25 such person and such candidate an opportunity to re-

1 spond. Not later than 14 days after the date on which
2 such a complaint is filed, the Commission shall make a
3 determination on such complaint.

4 “(2)(A) If the Commission determines by an affirma-
5 tive vote of a majority of the members voting that a person
6 has committed a violation of section 319A, the Commis-
7 sion shall require the person to pay a civil money penalty
8 in an amount determined under a schedule of penalties
9 which is established and published by the Commission.

10 “(B) If the Commission determines by an affirmative
11 vote of a majority of the members voting that a person
12 has committed a violation of section 319A under subpara-
13 graph (A) and that the candidate knew of the violation
14 at the time such violation occurred, the Commission may
15 require such candidate to pay a civil money penalty in an
16 amount determined under a schedule of penalties which
17 is established and published by the Commission.”.

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