

**REPORT OF THE  
CONFLICT OF INTERESTS COMMITTEE**

**TO  
THE GENERAL ASSEMBLY OF VIRGINIA**



**Senate Document No. 25**

**COMMONWEALTH OF VIRGINIA  
Department of Purchases and Supply  
Richmond  
1976**

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**Report of the  
Conflict of Interests Committee  
To  
The General Assembly of Virginia  
Richmond, Virginia  
January, 1976**

To: The General Assembly of Virginia

**INTRODUCTION**

During the 1975 Session of the General Assembly, several bills relating to the disclosure of financial interests by and conflicts of interest of public officials were introduced. Recognizing the importance of citizen confidence in public officials and the need for a close examination of existing law on these subjects, the General Assembly passed Senate Bill No. 893 directing a study of financial disclosure and conflict of interest statutes as follows:

**SENATE BILL NO. 893**

An Act directing a study of laws relating to conflicts of interest and disclosure by public officials.

WHEREAS, among the most important matters brought before the General Assembly during its 1975 Session have been those bills relating to the disclosure of financial interests by and conflicts of interest of public officials; and

WHEREAS, the complex nature of the bills and their impact if enacted require that more deliberate consideration be afforded these measures than time has permitted during the session; now, therefore

Be it enacted by the General Assembly of Virginia:

1. § 1. The Committees on General Laws and for Courts of Justice of the Senate and the Committees on General Laws and for Courts of Justice of the House of Delegates are directed to undertake jointly a study of the laws of the Commonwealth relating to disclosure of financial interests by and conflicts of interest of public officials. Among matters which should be considered in the study are:

a. the public officials to whom disclosure requirements should apply,

b. the substantive quality of disclosure including the limits, if any, beyond which no disclosure should be required,

c. the procedures necessary for enforcement of disclosure requirements including recommendations as to those persons who should be charged with enforcement responsibility,

d. the procedures which would allow ready public access to information filed as a result of disclosure requirements, and

e. any other matters relating to conflicts and disclosure which are deemed appropriate.

The Committees shall complete their study and make their report, including recommendations and proposed legislation, to the General Assembly no later than December one, nineteen hundred seventy-five.

Serving on the Committee as representatives of the Senate General Laws Committee were Adelard L. Brault, Fairfax; Joseph V. Gartlan, Jr., Fairfax; and, Stanley C. Walker, Norfolk. The House General Laws Committee selected L. Ray Ashworth, Wakefield, A. Victor Thomas, Roanoke, and Kenneth B. Rollins, Leesburg, to serve on the Committee. Hunter B. Andrews, Hampton, Frederick T. Gray, Chesterfield, and, Coleman B. Yeatts, Chatham, served on the Committee for the Senate Courts of Justice Committee. The House Courts of Justice Committee appointed George E. Allen, Jr., Richmond, Clinton Miller, Woodstock, and, Richard W. Elliott, Rustburg, to represent that Committee on this study.

Adelard L. Brault was elected Chairman of the study and George E. Allen, Jr. was elected Vice Chairman. Staff assistance was provided by Laurens Sartoris, Attorney, and Constance D. Sprouse, Research Associate, of the Division of Legislative Services. Gordon A. Wilkins, Jr., Attorney-at-Law and former Senate General Laws Committee counsel also provided assistance to the Committee.

The Committee held a public hearing in Richmond at which time the following persons appeared or filed written statements: Arthur Cecelski, member of Common Cause of Virginia; Rufus Phillips, member of Fairfax County Board of Supervisors; Nathaniel F. Young, Mayor of the city of Fairfax; Willard Cline, citizen from Augusta County; Albert Teich, Jr., citizen from Norfolk; Charles J. Colgan, member of the Prince William County Board of Supervisors; and, Wiley Mitchell, Jr., Vice-Mayor of Alexandria.

The Legislature's concern with financial disclosure and conflict of interest laws should not be regarded as evidence of depravity or declining morals in the administration of public affairs. However, certain disclosure requirements are necessary for the preservation of the public's confidence in the integrity of government.

The rapidity of change in society and government has brought about many government programs that protect, promote or otherwise serve particular interests. With a citizen legislature,

conflicts between personnel business affairs and official responsibilities are impossible to prevent. Virginia government has been substantially free of any conflict of interest in the past and it is the responsibility of the General Assembly to help prevent and resolve questions of conflict of interest. This study was prompted by the General Assembly's awareness of its responsibility in this regard.

The Committee offers the following recommendaions which it feels will resolve certain inadequacies in the present statutes and preserve the confidence Virginians have in their governmental officials.

### **RECOMMENDATIONS**

1. Officers and employees because of association with utilities and financial institutions should be subject to all restrictions relating to conflicts except that no material financial interest will exist when contracts between governmental entities and these companies are made.
2. The Secretary of the Commonwealth should be responsible for designing a uniform real estate disclosure form for local officials and should furnish such form to all nonelected officials filing a disclosure statement. The State Board of Elections should be responsible for disseminating such forms to candidates for elective office.
3. An official's votes should not be nullified for failure to file such form until after his conviction of such offense.
4. All reports should be typed for greater legibility.
5. The Clerks of the House of Delegates and Senate should be required to reproduce disclosure statements of members upon written requests for a fee of fifty cents per page of each statement copied.
6. The reports of economic interests should include all items of financial interests held at the time of filing.
7. Members of or candidates for the General Assembly furnishing compensated services over \$1,000 for representation before State agencies (including the State Corporation Commission and Industrial Commission) should be required to disclose such services and the name and address of pesons receiving such services.
8. Reference to the disclosure statements required of candidates and elected officials should be made in Title 24.1 (ELECTIONS).

### **RATIONALE FOR RECOMMENDATIONS**

1. Officers and employees because of association with utilities and financial institutions should be subject to all restrictions

relating to conflicts except that no material financial interest will exist when contracts between governmental entities and these companies are made.

Presently, officials filing reports pursuant to §§ 2.1-352 and 2.1-353 are not required to list their economic interests in financial institutions and public service corporations. These officials include any officer or employee of a governmental agency or advisory agency who knows, or may be expected to know, that he has a material financial interest in any transaction in which his agency is engaged.

The Committee proposes to require the reporting by any official of “employment by, ownership of, an interest in, or service on the board of directors of public service corporations, financial institutions or companies furnishing public utilities to governmental agencies” as a material financial interest. Only those officials acting on behalf of the Commonwealth under § 2.1-349 in the procurement, contracting, sale or purchase of items for the State would be exempt from reporting financial interests in public service corporations or financial institutions. [See § 2.1-348(f)(3) of Appendix 1.]

Recent public opinion polls have documented citizen alienation and cynicism toward government. This proposal will further identify to the public those persons with potential conflict situations. Public knowledge of material interests held by officials should increase citizen confidence in public officials.

2. The Secretary of the Commonwealth should be responsible for designing a uniform real estate disclosure form and should furnish such form to all nonelected officials filing real estate disclosure statements. The State Board of Elections should be responsible for disseminating such forms to candidates for elective office.

Section 2.1-353.1 mandates the disclosure of all real estate interests or holdings by members of boards of supervisors, city and town councils, planning commissions, boards of zoning appeals, real estate assessors, county managers or executives, and city or town managers, and their immediate families, in localities with populations exceeding 3,500 persons.

The Committee proposes this “housekeeping” measure to ensure the uniformity of disclosure statements. Since the Secretary of the Commonwealth maintains a current official list of persons holding nonelected positions, she should be given the duty of designing and disseminating this form to the proper individuals. This form would also be distributed by the Secretary of the Board of Elections to elected officials and candidates for elective offices since the Board holds all information concerning these people. [See Appendix 1.]

3. An official’s votes should not be nullified for failure to file such form until after his conviction of such offense.

Confusion exists as to what the disposition of his official acts would be should he fail to file the required disclosure statements. Until such statement is filed for the public's information, citizens have no means of determining the propriety of an official's actions.

In the event such a situation should arise, the Committee proposes language be added to § 2.1-354 clarifying the validity of any official acts done prior to such official's conviction for failing to file the required statement. [See Appendix 1.]

4. All reports should be typed for greater legibility.

It has been brought to the attention of the Committee that many statements filed by officials are totally illegible. Section 2.1-358(d)(i) should be amended to require statements to be typed to ensure legibility.

5. The Clerks of the House of Delegates and Senate should be required to reproduce disclosure statements of members upon written requests for a fee of fifty cents per page of each statement copied.

Even though the public has access to the reports filed in the Clerks' offices during regular business hours, no provisions for reproducing these reports for the public exist. The Committee proposes that reproduction be done by the Clerks at the rate of fifty cents per page to defray administrative costs. The Committee further recommends that reproducing of reports be done only upon written request to prevent a burden on the Clerks of having to respond to oral requests. [See § 2.1-358(d)(i) of Appendix 1.]

6. The reports of economic interests should include all items of financial interest held at the time of filing.

Section 2.1-358(d)(ii) lists those types of economic interests which must be disclosed but does not stipulate when the official held such interests. To provide uniformity in the reports, the Committee proposes language to this section to require all economic interests held at the time the report is filed be accounted for in such report.

7. Members or candidates for the General Assembly furnishing compensated services over \$1,000 for representation before State agencies (including the State Corporation Commission and Industrial Commission) should have to disclose such services and the name and address of persons receiving such services.

The Committee seeks to allay public suspicion of lawyer-legislators who represent clients before State agencies. These legislators have not used their public office to pressure or unduly influence agency offices. To maintain public confidence in the legislators' integrity and honesty, disclosure should be made of all services furnished exceeding \$1,000. The name of the person or entity and address receiving such services would be public information. The Committee does not intend by this amendment to

prohibit or restrict lawyer-legislator activities but rather to provide citizens with enough information on their activities to assure trust in these officials. [See § 2.1-358(d)(iv).]

8. Reference to the disclosure statements required of candidates and elected officials should be made in Title 24.1 (ELECTIONS).

The Committee agreed that the disclosure statutes occupy a somewhat obscure place in the Code. To assure that candidates for elective office are aware of the disclosure statement requirement, the Committee recommends a reference to § 2.1-353.1 be made in § 24.1-167 (qualification of candidates for elective office). [See Appendix 2.]

## CONCLUSION

The identification of conflict situations and the drafting of legislation is a difficult problem, especially since no particular instances in the Commonwealth have prompted this reexamination of the conflict of interest laws. However, certain ambiguities in the law do exist. In order to encourage the continuance of high standards of conduct among public officials and promote public confidence in government integrity, the Committee urges the General Assembly adoption of its recommendations to resolve these ambiguities.

Respectfully submitted,

Adelard L. Brault, Chairman

George E. Allen, Jr., Vice Chairman

Hunter B. Andrews

L. Ray Ashworth

Richard W. Elliott

Joseph V. Gartlan, Jr.



Frederick T. Gray

Clinton Miller

Kenneth B. Rollins

A. Victor Thomas

Stanley C. Walker

Coleman B. Yeatts

## **APPENDIX 1**

A Bill to amend and reenact §§ 2.1-348, 2.1-353.1, 2.1-354 and 2.1-358, as severally amended, of the Code of Virginia, relating to conflict of interests.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-348, 2.1-353.1, 2.1-354 and 2.1-358, as severally amended, of the Code of Virginia are amended and reenacted as follows:

§ 2.1-348. Definitions. As used in this chapter:

(a) “Governmental agency” shall include any legislative, executive or judicial body, office, department, authority, post, commission, committee, institution or board created by law to exercise some sovereign power or to perform some duty of State or local government, other than purely advisory powers or duties.

(b) “Advisory agency” shall include any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

(c) “Contract” shall include:

(1) Any agreement to which a government agency is a party;

(2) Any agreement on behalf of a governmental agency, which involves the payment of moneys appropriated to such governmental agency, even though such agreement be procured or executed in the name of the Commonwealth of Virginia, or some political subdivision thereof, of which the governmental agency affected is a component part.

(d) “Officer” shall include any person appointed or elected to any governmental or advisory agency, and who shall be deemed an officer of such agency, whether or not such person receives compensation or other emolument of office, but as to §§ 2.1-351, 2.1-352 and 2.1-353 shall not include any member of the General Assembly of Virginia.

(e) “Employee” shall include all persons employed by any governmental or advisory agency.

(f) “Material financial interest” shall include a personal and pecuniary interest accruing to an officer or employee or to his spouse or to any other relative who resides in the same household. Notwithstanding the foregoing:

(1) Ownership of an interest of five percent or more in a firm,

partnership or other business, or aggregate annual income, exclusive of dividend income and interest income, of five thousand dollars or more from a firm, partnership or other business shall be deemed to be a material financial interest in such firm, partnership or other business;

(2) Ownership of an interest of less than five percent in a firm, partnership or other business, or aggregate annual income, exclusive of dividend income and interest income, of less than five thousand dollars, from a firm, partnership or other business shall be deemed not to be a material financial interest in such firm, partnership or other business;

(3) ~~Except~~ For the purposes of §§ 2.1 352 and 2.1 353 § 2.1-349 only, employment by, ownership of, an interest in, or service on the board of directors of public service corporations, financial institutions or companies furnishing public utilities to governmental agencies shall not be deemed to be a material financial interest within the meaning of this chapter;

(4) The employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory and/or administrative position with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is seventy-five hundred dollars or more; and

(5) The provisions of this chapter relating to personal service or employment contracts shall not apply to any persons who were regularly employed by the same governmental agency or unit of government on or prior to June thirty, nineteen hundred seventy-one, with regard to personal service or employment contracts with such governmental agency or unit of government.

§ 2.1-353.1. Disclosure of real estate holdings.—In all counties, cities and towns with populations in excess of thirty-five hundred persons, members of boards of supervisors, city and town councils, planning commissions, boards of zoning appeal, and real estate assessors, county managers or executives and city or town managers and their immediate families (or spouse or any other relative who resides in the same household) shall make annual disclosures of all their real estate interests or holdings in the county, city or town from which they are elected or by which they are employed, as well as their holdings in any corporation, partnership or any other business association or entity whose primary purpose is to own or develop real estate and which has real estate interests in such county, city or town. Such annual disclosures shall be filed *on forms designed and provided by the Secretary of the Commonwealth* with the clerk of the circuit court for such county, city or town prior to December thirty-one of each year and shall become a matter of public record. *The Secretary of the Commonwealth shall furnish annually such forms to each person required to file the same who is not an elected official or who has been elected to office but is not a candidate at the time the forms are furnished.*

Any candidate for the above-named elective offices shall *be furnished the necessary form by the State Board of Elections and file the same* disclosure statement not more than sixty days nor less than thirty days prior to the election.

The disclosure shall set forth a description of such real estate and its location.

§ 2.1-354. Violation of chapter as malfeasance in office or employment and misdemeanor.—Any officer or employee who violates any of the foregoing provisions of this chapter shall be guilty of malfeasance in office or employment. Any officer or employee who shall knowingly violate any of such provisions shall be guilty of a misdemeanor, and upon conviction thereof, shall, in addition to any other fine or penalty provided by law, forfeit his office or employment. *Where the violation of this chapter relates to failure by the person to make the disclosures required by § 2.1-353.1, no official act performed by him prior to a conviction under this section shall be deemed invalid.*

§ 2.1-358. Standards of conduct for the Governor, Lieutenant Governor, Attorney General and candidates for Governor, Lieutenant Governor and Attorney General and members of and candidates for General Assembly.—(a) This section relates to certain standards of conduct for members of and candidates for the General Assembly to whom §§ 2.1-351, 2.1-352 and 2.1-353 of this chapter shall not apply, and the Governor, Lieutenant Governor and Attorney General and candidates for Governor, Lieutenant Governor and Attorney General. It is the purpose of this section (i) to establish proper standards of conduct for members of and candidates for the General Assembly, (ii) to assure that the conduct of members and candidates will be open to public scrutiny, and (iii) to affirm the right of members to introduce, debate and vote on legislation with which they are particularly familiar because of their employment, background and occupation unless a member should determine in his own discretion that such action involves self-interest or a conflict of interest. This section is also intended to provide standards of conduct and disclosure for the Governor, Lieutenant Governor and Attorney General and candidates for Governor, Lieutenant Governor and Attorney General.

(b) The following definitions shall be applicable in this section unless the context otherwise requires:

(i) “Clerk” means the clerk of the Senate with respect to members and members-elect of the State Senate and the clerk of the House of Delegates with respect to members and members-elect of the House of Delegates.

(ii) “Compensation” means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another.

(iii) “Economic opportunity” means any transaction or arrangement involving property or services wherein a member may gain an economic benefit.

(iv) "Legislative interest" means a substantial economic interest, distinct from that of the general public, in one or more legislative matters.

(v) "Legislative matter" means any bill, resolution, nomination, or other issue or proposal pending before the General Assembly or any committee or subcommittee thereof.

(vi) "Member" means a member or member-elect of the General Assembly.

(vii) "Person" or "entity" means an individual, proprietorship, partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency, unit, or subdivision.

(viii) "Person with whom the member maintains a close economic association" means a person associated with the member in a partnership, association or professional service corporation, whether as partner, officer, associate or otherwise.

(ix) "Candidate" means a person who has qualified pursuant to § 24.1-166 or 24.1-184 of the Code of Virginia.

(c) The following standards shall govern the conduct of members of the General Assembly:

(i) No member shall solicit, accept or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form that might reasonably tend to influence him in the discharge of his duties. This paragraph shall not apply to: any political contribution actually used for political campaign purposes; the purchase of tickets to, or advertisements in journals for, political or testimonial dinners; or an interest-bearing loan made in the ordinary course of business.

(ii) No member shall accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties.

(iii) No member may charge to or accept from a person known to have a legislative interest, a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which the member would charge or be entitled to charge in the ordinary course of business.

(iv) No member in order to further his own economic interests, or those of any other person, may disclose or use confidential information acquired in the course of his official duties.

(v) No member may accept employment where there is substantial reason for him to believe that it is being offered with

intent to obtain improper influence over a State agency.

(vi) No member may use or attempt to use improper means to influence a State agency.

(d) Members, except members who have not been elected to serve in the next succeeding session of the General Assembly, candidates and the Governor, Lieutenant Governor and Attorney General and candidates for Governor, Lieutenant Governor and Attorney General shall be subject to the following requirements with respect to disclosure of their economic interests:

(i) Every member and candidate shall file with the clerk of his house or the house for which he seeks election written statements of economic interests and relationships likely to create conflicts of legislative interest. The same written statements shall be filed by the Governor, Lieutenant Governor and Attorney General and candidates for Governor, Lieutenant Governor and Attorney General with the Secretary of the Commonwealth. Such statements shall include the information specified in paragraphs (ii) through (iv) below, *be typed*, and be substantially in accordance with the form set forth in paragraph (v) below. Such forms shall be filed by members and the Governor, Lieutenant Governor and Attorney General during the month of December of each year. Such forms shall be filed by primary candidates not later than ten days after the filing deadline for the primary, and by all other candidates not later than ten days after the second Tuesday in June and by candidates in special elections by the time of qualifying as a candidate, unless such forms have been filed in accordance with these provisions for a member. *The officer with whom such statements are filed shall make copies of the same available to any person who makes a written request and pays a fee of fifty cents for each page of any statement received by the person.*

The clerks of the respective houses shall transmit forthwith to the State Board of Elections a list of those persons who have filed such forms; and the secretary of the State Board of Elections shall advise the appropriate local boards of the filing.

(ii) A list of economic interests of the person making the disclosure and of members of his immediate family (his spouse or any other relative who resides in the same household), *held at the time of filing*, whether in the form of stocks, bonds, realty, equity or creditor interests in proprietorships or partnerships, or otherwise, in any entity subject to regulation by a State agency, or which has a legislative interest. Exempted from disclosures are: interests in the form of accounts in banks and savings and loan associations; and in the case of equity interests, interests valued at less than five thousand dollars or representing less than five percent of the total equity interests in the entity. All interests, equitable or otherwise, in any newspaper, magazine, news agency, press association, wire service, radio station, television station or other news medium irrespective of the amount or value of interest held and irrespective of legislative interest on the part of the member or candidate, shall be disclosed.

(iii) A list of every office, paid directorship or salaried employment of the person making the disclosure and of members of his immediate family (his spouse or any other relative who resides in the same household), in any entity subject to regulation by a State agency, or which has a legislative interest.

(iv) A list of all entities to whom the member or candidate or Governor, Lieutenant Governor or Attorney General furnished compensated services valued at more than one thousand dollars *by way of representation before any State governmental agency including the Industrial Commission of Virginia and the State Corporation Commission, except when acting in an official legislative capacity or in any court*, during the period covered by the report or in the case of an initial report during the preceding year. Entities to whom such services were furnished by a person with close economic association with the member, Governor, Lieutenant Governor or Attorney General shall also be listed, if the member knows of such activities.

(v) The form for making disclosures required by this subsection shall be substantially as follows:

**DISCLOSURE FORM FOR MEMBERS OF OR CANDIDATES  
FOR THE GENERAL ASSEMBLY, GOVERNOR, LIEU-  
TENANT GOVERNOR AND ATTORNEY GENERAL  
STATEMENT OF INTERESTS**

I, ....., a member of the .....  
(please print name)

(or candidate for) .....

(Senate, House, Governor, Lieutenant  
Governor, or Attorney General)

make the following statement:

(1) The economic interests of myself and my immediate family, in the form of stocks, bonds, real estate, equity interests in proprietorships or partnerships, or otherwise, excluding interests in the form of accounts in banks and savings and loan associations, and equity interests valued at less than \$5,000 or representing less than five percent of the total equity interests in the entity but including any news medium interest, are as follows:

**ECONOMIC INTERESTS  
(TYPE OF ENTITY)**

(2) The offices, paid directorships, or salaried employments of myself and my immediate family are as follows:

**OFFICES, DIRECTORSHIPS AND SALARIED EMPLOYMENTS**

.....  
.....  
.....

(3) The entities to whom I have been furnishing compensated services, or which to my knowledge, have received such services from my professional colleagues excluding entities for whom the services furnished were valued at less than \$1,000 during the period covered by this report, are as follows:

**ENTITIES TO WHOM SERVICES WERE FURNISHED**

**(TYPE OF ENTITY)**

.....  
.....  
.....

(vi) Statements filed with the clerk shall be open to public inspection.

(vii) The values of any interests required to be reported under this subsection need not be disclosed. Any entity required to be reported under subsection (d) ~~need not~~ (iv) and any news medium shall be identified by name ~~except where the entity is a news medium~~. Such ~~Any other~~ entity may ~~instead~~ be identified by the principal type of economic activity in which it engages, together with such additional detail as will fairly indicate its legislative interests.

However, where such entity is a registered lobbyist, it shall be identified by name.

(e) Any member violating any provision of this section shall be subject to discipline by the house of which he is a member for such violation. Any candidate failing to file such statement in accordance with the provisions of this section shall not be entitled to have his name printed on the ballot.

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## APPENDIX 2

A Bill to amend and reenact § 24.1-167, as amended, of the Code of Virginia, relating to qualifications of candidates.

Be it enacted by the General Assembly of Virginia:

1. That § 24.1-167, as amended, of the Code of Virginia is amended and reenacted as follows:

§ 24.1-167. Qualification of candidates; person entitled to have name printed on ballot.—In order to qualify as a candidate for any office of the Commonwealth, or of its governmental units, a person must be qualified to vote for and hold that office. In order to hold any office of the Commonwealth or its governmental units, elective by the people, the candidate must have been a resident of the Commonwealth for one year immediately prior to the commencement of the term of the office for which he offers. A candidate for the Senate or House of Delegates shall file with the clerk of the appropriate house written statements of economic interest as required by § 2.1-358 of this Code. *Any candidate for an elective office required by § 2.1-353.1 to file disclosure statements shall comply with such filing requirements.* Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot provided for in the election.

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