

Thanks for inviting us back to testify on S.298, the Vermont Voting Rights Act, tomorrow. In case helpful, I am sending you the civil investigation authority language that I suggested adding to section 2 of the bill when I testified on Wednesday, April 8 last week. This would give the AGO the same investigative tools that it currently has for campaign finance law violations (Title 17 chapter 61) and offenses against the purity of elections (Title 17 chapter 35), making the civil investigation authority consistent across election law. I believe this is the only suggested language change we have to offer at the moment, but we have some suggested revisions to the effective dates that may resolve some of the concerns we raised last week.

Below is the proposed language for investigative authority, which I copied from 17 V.S.A. § 2904 (campaign finance law). Please forgive the formatting!

Thanks,
Leslie

Sec. 2. 17 V.S.A. chapter 59 is added to read:

[. . .]

§ 2805. CIVIL INVESTIGATION

(a)(1) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

(2) The Attorney General or a State's Attorney may require the attendance of such person or of any other person having knowledge in the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the State and may take testimony and require proof material for his or her information and may administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(3) The Attorney General or a State's Attorney shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses personally or by certified mail upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Such notice shall include a statement that a knowing and intentional violation of this chapter is subject to criminal prosecution.

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for

good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or a State's Attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with any civil action brought under section 2804 of this subchapter or subsection (c) of this section.

(5) Nothing in this subsection is intended to prevent the Attorney General or a State's Attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule made pursuant to this chapter.

(6) This subsection shall not be applicable to any criminal investigation or prosecution brought under the laws of this or any state.

(b)(1) A person upon whom a notice is served pursuant to the provisions of this section shall comply with its terms unless otherwise provided by the order of a court of this State.

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than \$5,000.00.

(c)(1) Whenever any person fails to comply with any notice served upon him or her under this section or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender the material, the Attorney General or a State's Attorney may file, in the Superior Court in the county in which the person resides or has his or her principal place of business or in Washington County if the person is a nonresident or has no principal place of business in this State, and serve upon the person a petition for an order of the court for the enforcement of this section.

(2) Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter so presented and to enter any order or orders as may be required to carry into effect the provisions of this section. Any disobedience of any order entered under this section by any court shall be punished as a contempt of the court.

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the Superior Court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before Superior Court as authorized by this section shall take precedence on the docket over all other cases.