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HOUSE BILL NO. 1089

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Privileges and Elections
on February 3, 2006)

(Patron Prior to Substitute—Delegate Scott, J.M.)

A BILL to amend and reenact §§ 24.2-903, 24.2-904, 24.2-908, and 24.2-928 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 9 of Title 24.2 sections numbered 24.2-928.1 and 24.2-928.2, relating to the Campaign Finance Disclosure Act; record retention requirements and reviews of campaign finance disclosure reports.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-903, 24.2-904, 24.2-908, and 24.2-928 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 9 of Title 24.2 sections numbered 24.2-928.1 and 24.2-928.2 as follows:

§ 24.2-903. Summary of election laws; forms.

The State Board shall summarize the provisions of the election laws relating to campaign contributions and expenditures and provide for distribution of this summary and prescribed forms to each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first. The Board shall designate the form of the report of contributions and expenditures which shall be the only such form used in complying with the provisions of this chapter. The Board shall also prescribe a separate form for the required reporting of certain large contributions and expenditures pursuant to § 24.2-919.

The State Board shall provide, with the summary required by this section, instructions for persons filing reports pursuant to this chapter to assist them in completing the reports. The instructions shall include directions for the reporting of candidate primary filing fees. *The instructions shall set out the requirements for retaining records and materials for implementing the review provisions of §§ 24.2-928.1 and 24.2-928.2.*

§ 24.2-904. Appointment of campaign treasurer; designation of campaign committee and depository.

A. Upon accepting any contribution for his candidacy, each candidate for nomination or election shall appoint a single campaign treasurer and may designate not more than one campaign committee to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election and to file the reports required by this chapter. The payment of a primary filing fee by the candidate constitutes the acceptance of a contribution for the purposes of this section. At the same time he shall designate a campaign depository in a financial institution within the Commonwealth. He shall provide, on a statement of organization form prescribed by the State Board, the name and address of the campaign treasurer, the name of the financial institution for his campaign depository, and, if one, the name of the campaign committee. In the case of any candidate who seeks election for successive terms in the same office, the form filed by the candidate shall continue in effect for such successive elections, but the candidate shall file notice of any changes in the information provided on the form within 10 days of the change with the State Board, local electoral board, or both, as appropriate.

He shall file the form with the (i) electoral board of the county or city in which he resides if he is a candidate for local office, (ii) electoral board of the county or city in which he resides and the State Board if he is a candidate for the General Assembly, or (iii) State Board if he is a candidate for statewide office. Every treasurer so appointed shall accept the appointment, in writing on the form, prior to the filing thereof. No individual shall act as treasurer unless the required statement of appointment shall have been filed. No individual shall be appointed or act as treasurer in any election who is not a qualified voter of the Commonwealth. The same person may serve as campaign treasurer for more than one candidate.

B. In the event of the death, resignation, removal, or change of the treasurer, the candidate shall designate a successor and file the name and address of the successor within 10 days of the change with the State Board, local electoral board, or both, as provided in subsection A.

C. Any candidate who fails to appoint and report the appointment of a treasurer or successor treasurer shall be deemed to have appointed himself treasurer and shall comply as such with the provisions of this chapter.

D. In addition to the requirements of § 24.2-906, the treasurer of the campaign committee for a candidate for Governor, Lieutenant Governor, Attorney General, or the General Assembly shall be responsible for retaining all bank statements for, and copies of checks issued on, the campaign depository and bills, invoices, and receipts for any expenditure greater than \$500. The treasurer for a candidate for Governor, Lieutenant Governor, Attorney General, or a nonincumbent candidate for the

60 *General Assembly shall retain these records and materials for a period starting from the date of the*
61 *designation of the campaign depository for the campaign through 90 days after the general election. The*
62 *treasurer for incumbent candidates for the General Assembly shall retain these records and materials*
63 *for a period starting from the date that the incumbent was sworn into office for the term being served at*
64 *the time of the election through 90 days after the general election. The treasurer of a campaign*
65 *committee for a candidate for Governor, Lieutenant Governor, Attorney General, or the General*
66 *Assembly shall make such records and materials available to the State Board of Elections or its*
67 *designee upon request pursuant to the provisions of § 24.2-928.1.*

68 § 24.2-908. Statement of organization.

69 A. Except as provided in subsection B, each political committee that anticipates receiving
70 contributions or making expenditures in excess of \$200 in a calendar year shall file with the State Board
71 a statement of organization within 10 days after its organization or, if later, within 10 days after the date
72 on which it has information that causes the committee to anticipate it will receive contributions or make
73 expenditures in excess of \$200 or on which it otherwise becomes subject to the provisions of this
74 chapter.

75 The statement of organization shall include:

- 76 1. The name of the committee and its address in the Commonwealth;
- 77 2. The names, addresses, and relationships of affiliated or connected organizations;
- 78 3. The area, scope, or jurisdiction of the committee;
- 79 4. The name, business address, and position of the custodian, if any, of books and accounts and his
80 residence address in the Commonwealth;
- 81 5. The name, residence address, and position of other principal officers, including officers and
82 members of the finance committee, if any, and including at least one principal officer who is a resident
83 of the Commonwealth, who serves as treasurer or chief executive officer of the committee, and who
84 shall be deemed the agent of the committee for the purpose of service of process on the committee;
- 85 6. The name, address, office sought, and party affiliation of each individual whom the committee is
86 supporting or opposing for nomination or for election to any public office whatever or, if supporting the
87 entire ticket of any party, the name of the party;
- 88 7. In the event the committee is promoting or opposing a referendum, the subject of the referendum,
89 the date and location of the election, and a statement whether the committee is promoting or opposing
90 the referendum question;
- 91 8. In the case of an inaugural fund committee, the name, address, and office to which elected of the
92 person on whose behalf the committee is organized;
- 93 9. A statement whether the committee is a continuing one;
- 94 10. The disposition of residual funds that will be made in the event of dissolution;
- 95 11. The designated sole depository to be used for the receipt and holding of funds and contributions
96 received by the committee, in an account in a financial institution within the Commonwealth; and
- 97 12. Such other information as shall be required by the State Board except that the account number
98 for the designated sole depository account shall not be required.

99 Any change in information previously submitted in a statement of organization shall be reported to
100 the State Board within 10 days following the change.

101 Any committee that, after having filed a statement of organization, disbands or determines it will no
102 longer receive contributions or make expenditures during the calendar year in an aggregate amount
103 exceeding \$200 shall so notify the State Board. A final report shall be filed by the committee that sets
104 forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all
105 debts, and (iii) the disposition of the committee's surplus funds. This final report shall include a
106 termination statement, signed by the custodian of the books and accounts or other principal officer listed
107 on the statement of organization, that all reporting for the committee is complete and final.

108 B. Notwithstanding the provisions of subsection A, a political committee that is established or
109 controlled by a corporation doing business in Virginia or a national political party committee shall
110 provide the following information in its statement of organization in lieu of the information required in
111 subdivisions 1, 4, 5, and 11 of subsection A:

- 112 1. The name and address of the committee;
- 113 2. The name, residence and business addresses, and position of the custodian, if any, of books and
114 accounts;
- 115 3. The name, residence address, and position of other principal officers, including officers and
116 members of the finance committee, if any; and
- 117 4. A listing of all banks, safe-deposit boxes, or other repositories used.

118 C. *The treasurer of a committee shall be responsible for retaining all bank statements for, and*
119 *copies of checks issued on, the campaign depository and bills, invoices, and receipts for any expenditure*
120 *greater than \$500 for a period of three years and shall make such records and materials available to*
121 *the State Board of Elections or its designee upon request pursuant to the provisions of § 24.2-928.2.*

§ 24.2-928. Reporting of certain violations; penalties.

A. It shall be the duty of the State Board to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title to the appropriate attorney for the Commonwealth. The State Board shall report to the attorney for the Commonwealth of the City of Richmond in the case of reporting requirements for statewide campaigns and for political committees and to the attorney for the Commonwealth of the county or city of the residence of a candidate for the General Assembly. If all the officers of a political committee are residents of one county or city as shown on the statement of organization filed by the committee pursuant to § 24.2-908, the State Board shall report violations for that political committee to the attorney for the Commonwealth of that county or city.

B. It shall be the duty of the electoral board of a county or city to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title relating to the filing of reports with the electoral board to the attorney for the Commonwealth for the county or city in which the electoral board has jurisdiction.

C. In order to fulfill the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title and for verifying that reports are complete and submitted on time. As part of the system referred to in this subsection, the general registrar for each county and city, or the secretary of the electoral board in any county or city in which the electoral board chooses to perform the duties stated in this subsection, shall be required, in accordance with instructions provided by the Board, to receive, catalog, and review the reports filed with the local electoral board and to verify that the reports are complete and submitted on time. The State Board, or the general registrar or secretary of the electoral board, in accordance with the instructions of the State Board, shall notify, no later than 14 days after the report due date, any person submitting an incomplete report of the need for additional information. *The State Board shall be granted an additional 60 days to review records and request additional information when conducting reviews of reports and records pursuant to the requirements of §§ 24.2-928.1 and 24.2-928.2.* The State Board, or the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, may request additional information to correct obvious mathematical errors and to fulfill the requirements for information on the reports.

D. The State Board, and the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, (i) shall assess and collect the civil penalties provided in § 24.2-929 and (ii) if unable to collect the penalty, shall report the violation to the appropriate attorney for the Commonwealth for enforcement. Each locality shall advise the State Board of penalties assessed, collected and reported to the attorney for the Commonwealth.

E. In the case of any committee that is required to file a statement of organization pursuant to § 24.2-908 but excluding campaign committees, the State Board shall be authorized to waive a penalty that has been assessed if the filer demonstrates that there exists good cause to waive the penalty.

F. No local electoral board shall be required to retain any reports longer than one year from the date of filing the final report required by §§ 24.2-915 through 24.2-920 and 24.2-923, or any successor provision thereto, or the next general election for the office to which the report relates, whichever is later, unless a court of competent jurisdiction shall order their retention for a longer period.

§ 24.2-928.1. *Reviews of campaign finance reports and records in campaigns for Governor, Lieutenant Governor, Attorney General, and the General Assembly.*

A. *In addition to its duties under § 24.2-928, the State Board of Elections shall have the authority to review the reports and records of the campaign committees for candidates for Governor, Lieutenant Governor, Attorney General, and the General Assembly. The purposes of the review shall be (i) to reconcile the balance in the campaign depository with the amounts reported in the candidate's reports of receipts and expenditures and (ii) to review the reports for mathematical accuracy and completeness including the reporting of specific information required by law. In the performance of its review, the State Board is authorized to request the production of monthly bank statements for, and copies of checks issued on, campaign depositories and itemized bills, invoices, and receipts for any expenditure of campaign funds in an amount greater than \$500.*

B. *The Board shall review the reports and records of the campaign committees of candidates for Governor, Lieutenant Governor, and Attorney General within 60 days following the general election and, in the case of a losing primary candidate, within 60 days following the primary. The Board shall review the reports and records of a percentage of the campaign committees of candidates for the Senate or House of Delegates within 60 days following the general election for the Senate or House of Delegates, respectively. The Board shall review 10% of the campaign committees of candidates, including losing primary candidates, for the Senate and House of Delegates, respectively. The Board shall meet publicly to select the campaign committees to be reviewed by a drawing that ensures selection on a random basis. The selection shall be by a drawing of districts for the Senate or House of*

183 *Delegates. All campaign committees for a district shall be audited, and the total number of campaign*
184 *committees to be audited for the Senate or the House of Delegates shall equal 10% of the total number*
185 *of campaign committees for the Senate or the House of Delegates, respectively.*

186 *No review shall be conducted of a campaign committee for any office that has received less than*
187 *\$25,000 in contributions during the campaign, including the transfer of surplus funds from a prior*
188 *campaign. Campaign committees for General Assembly candidates that are exempt from review pursuant*
189 *to this paragraph shall not be included in the drawing provided for in this subsection or counted in*
190 *determining the number that equals 10% of the committees to be reviewed.*

191 *C. Upon completing the review of the reports and records, the State Board shall have the authority*
192 *to assess penalties for violations as provided in §§ 24.2-929 and 24.2-930 if any violations of this*
193 *chapter are discovered.*

194 *D. In the performance of its duties under this section, the State Board may employ the services of*
195 *additional personnel to the extent that appropriated funds are available to the State Board for such*
196 *purpose.*

197 *E. The Board shall report the results of its reviews to the Governor and the General Assembly by*
198 *January 31 of each year following the election year for the office to which the review pertains.*

199 *F. The provisions of this section shall be effective to the extent that funds are appropriated for this*
200 *purpose. The Board shall have the authority to reduce the number of districts reviewed or the scope of*
201 *the reviews if funds are not sufficient. Any such planned reductions shall be announced before the*
202 *drawing provided for in subsection B.*

203 *§ 24.2-928.2. Reviews of campaign finance reports and records of political committees.*

204 *A. In addition to its duties under § 24.2-928, the State Board of Elections shall have the authority to*
205 *review the reports and records of the political committees. The purposes of the review shall be (i) to*
206 *reconcile the balance in the committee depository with the amounts reported in the committee's reports*
207 *of receipts and expenditures and (ii) to review the reports for mathematical accuracy and completeness*
208 *including the reporting of specific information required by law. In the performance of its review, the*
209 *State Board is authorized to request the production of monthly bank statements for, and copies of checks*
210 *issued on, campaign depositories and itemized bills, invoices, and receipts for any expenditure of*
211 *campaign funds in an amount greater than \$500.*

212 *B. The Board shall review the reports and records of political committees within 60 days following*
213 *the November general election. The Board shall review 10% of the political committees. The Board*
214 *shall meet publicly to select the committees to be reviewed by a drawing that ensures selection on a*
215 *random basis.*

216 *No review shall be conducted of a committee that has received less than \$25,000 in contributions or*
217 *has made less than \$25,000 in expenditures during the calendar year with respect to the November*
218 *election.*

219 *C. Upon completing the review of the reports and records, the State Board shall have the authority*
220 *to assess penalties for violations as provided in §§ 24.2-929 and 24.2-930 if any violations of this*
221 *chapter are discovered.*

222 *D. In the performance of its duties under this section, the State Board may employ the services of*
223 *additional personnel to the extent that appropriated funds are available to the State Board for such*
224 *purpose.*

225 *E. The Board shall report the results of its reviews to the Governor and the General Assembly by*
226 *January 31 of each year following the election year for the office to which the review pertains.*

227 *F. The provisions of this section shall be effective to the extent that funds are appropriated for this*
228 *purpose. The Board shall have the authority to reduce the number of committees reviewed or the scope*
229 *of the reviews if funds are not sufficient. Any such planned reductions shall be announced before the*
230 *drawing provided for in subsection B.*

231 **2. That the provisions of this act shall become effective on January 1, 2008.**