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SENATE BILL NO. 436

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Privileges and Elections
on February 7, 2006)

(Patrons Prior to Substitute—Senators Devolites Davis and Deeds [SB 628])

A *BILL to amend and reenact §§ 24.2-901, 24.2-908, and 24.2-922 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 9 of Title 24.2 a section numbered 24.2-907.1, and by adding sections numbered 24.2-908.2, 24.2-910.2, 24.2-910.3, 24.2-910.4, and by adding in Article 5 of Chapter 9 of Title 24.2 a section numbered 24.2-930.1, relating to campaign finance; special disclosure requirements for federal political action committees and out-of-state political committees; civil penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-901, 24.2-908, and 24.2-922 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 9 of Title 24.2 a section numbered 24.2-907.1, and by adding sections numbered 24.2-908.2, 24.2-910.2, 24.2-910.3, 24.2-910.4, and by adding in Article 5 of Chapter 9 of Title 24.2 a section numbered 24.2-930.1 as follows:

§ 24.2-901. Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Campaign committee" means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

"Contribution" means money and services of any amount, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee.

"Expenditure" means money and services of any amount, and any other thing of value, paid, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

"Federal political action committee" means any political action committee registered with the Federal Election Commission that makes contributions to candidates or political committees registered in Virginia.

"Inaugural committee" means any committee that anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

"Independent expenditure" means an expenditure made by any person or political committee that is not made to, controlled by, coordinated with, or made upon consultation with a candidate, his campaign committee, or an agent of the candidate or his campaign committee.

"Out-of-state political committee" means an entity covered by § 527 of the United States Internal Revenue Code that is not registered as a political committee or candidate campaign committee in Virginia and whose contributions made to political committees and candidate campaign committees registered in Virginia is 75% or less of their total expenditures in any calendar year. The term shall not include a federal political action committee.

"Person" means any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative, or other like entity.

"Political action committee" means any organization, other than a campaign committee, federal political action committee, out-of-state political committee, or political party committee, established or maintained in whole or in part to receive and expend contributions for political purposes.

"Political committee" means any state political party committee, congressional district political party committee, county or city political party committee for a county or city with a population of more than 100,000, organized political party group of elected officials, political action committee, other committee, person or group of persons which receives contributions or makes expenditures for the purpose of influencing the outcome of any election. The term shall not include: (i) a federal political action committee or out-of-state political committee; (ii) a campaign committee; ~~(iii)~~ (iii) a political party committee exempted pursuant to § 24.2-911; or ~~(iii)~~ (iv) a person who receives no contributions from any source and whose only expenditures are made solely from his own funds and are either contributions made by him which are reportable by the recipient pursuant to Article 4 (§ 24.2-914 et

60 seq.) of this chapter or independent expenditures which are reportable by him to the extent required by
61 subsection B of § 24.2-910, or a combination of such reportable contributions and independent
62 expenditures.

63 B. For the purpose of applying the filing and reporting requirements of Article 3 (§ 24.2-908 et seq.)
64 and Article 4 of this chapter, the terms "person," "political action committee," and "political committee"
65 shall not include an organization holding tax-exempt status under § 501 (c) (3) of the United States
66 Internal Revenue Code which, in providing information to voters, does not advocate or endorse the
67 election or defeat of a particular candidate, group of candidates, or the candidates of a particular
68 political party.

69 § 24.2-907.1. *Certain contributions received from federal political action and out-of-state political*
70 *committees; campaign committee responsibilities.*

71 *Prior to accepting contributions of \$10,000 or more in the aggregate in any calendar year from any*
72 *one federal political action committee or out-of-state political committee, the candidate campaign*
73 *committee shall (i) request the federal political action committee's or out-of-state political committee's*
74 *State Board of Elections registration number from the committee and (ii) verify that number with the*
75 *State Board.*

76 § 24.2-908. Statement of organization.

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

83 The statement of organization shall include:

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

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

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

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

- 120 1. The name and address of the committee;
- 121 2. The name, residence and business addresses, and position of the custodian, if any, of books and

accounts;

3. The name, residence address, and position of other principal officers, including officers and members of the finance committee, if any; and

4. A listing of all banks, safe-deposit boxes, or other repositories used.

C. A federal political action committee that makes expenditures for the purpose of influencing the outcome of any election in Virginia, other than federal elections, shall provide the following information in its statement of organization:

1. The name and address of the committee; and

2. The committee's Federal Election Commission registration identification number; and

3. The name and address of its treasurer.

The State Board shall be required to provide a link from its Internet website to the federal political action committee's electronically displayed Federal Election Commission campaign finance disclosure reports.

§ 24.2-908.2. Out-of-state political committees; statements of organization.

A. Out-of-state political committees shall submit a statement of organization on or before the date on which the committee makes contributions of \$10,000 or more in the aggregate in a calendar year to candidate campaign committees or political committees registered with the State Board of Elections.

B. The statement of organization shall include the information required pursuant to § 24.2-908 except that the committee shall not be required to establish a depository account in a financial institution in the Commonwealth.

C. In addition to the information required pursuant to § 24.2-908, the committee shall include on its statement of organization (i) its taxpayer identification number, (ii) the federal and state agencies with which it is required to file financial disclosure information, (iii) the registration number assigned to it by each agency listed under clause (ii), and (iv) the reporting deadlines for filing financial disclosure information with each agency listed under clause (ii).

D. On the same day that an out-of-state political committee submits its statement of organization to the State Board, (i) it shall file a list of each contributor who has contributed to the committee \$2,000 or more in the aggregate between the immediately preceding January 1 and the date on which the statement of organization is filed with the contributor's name, address, occupation, employer, and place of business and the dates and amounts of the contributor's contributions during the period covered by the report; and (ii) it shall file a report of the contributions it has made to candidate campaign committees or political committees registered with the State Board between the immediately preceding January 1 and the date on which the statement of organization is filed.

E. Any political organization as defined in § 527 of the United States Internal Revenue Code that is shown on the list of contributors required by this section and that has contributed \$50,000 or more to the committee filing the list of contributors required by this section shall be required to file a statement of organization and the lists of its contributors and its contributions as provided in subsection D.

§ 24.2-910.2. Out-of-state political committees; reporting requirements.

A. The provisions of this section are applicable only to out-of-state political committees.

B. Any committee subject to the provisions of this section shall also be subject to the filing schedule provided in subsection C of § 24.2-923.

C. The first report required by this subsection shall include contributions and expenditures from the date that the committee filed its statement of organization to the end of the quarter. On its quarterly report, the committee (i) shall include a list of each contributor who has contributed to the committee \$2,000 or more in the aggregate in the reporting period covered by the quarterly report with the contributor's name, address, occupation, employer, and place of business and the dates and amounts of the contributor's contributions during the reporting period; and (ii) shall file a report of the contributions it has made to candidate campaign committees or political committees in the Commonwealth during the reporting period.

D. In addition to the quarterly reports required by subsection B, the committee shall report any single contribution or loan of \$2,000 or more received at any time within three business days of receipt of the contribution or loan. The report shall be filed electronically in the manner prescribed by the State Board. For the purposes of this subsection, committees shall report as one contribution multiple contributions from a single source that have been subdivided into smaller amounts or given through different bank accounts for the purpose of evading the \$2,000 threshold.

E. The reporting requirements of this section shall continue in effect for each committee until a final report is filed that sets forth all contributions and expenditures not previously reported. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final.

F. The State Board shall provide for a "no activity" report that may be filed for any period set out in subsection C of § 24.2-923 in which the committee has no activity to report.

§ 24.2-910.3. *Out-of-state political committees; additional requirements.*

Prior to accepting contributions of \$10,000 or more in the aggregate in any calendar year from any other out-of-state political committee, an out-of-state political committee shall (i) request its State Board of Elections registration number from that other out-of-state political committee and (ii) verify that number with the State Board.

§ 24.2-910.4. *Certain contributions received from federal political action and out-of-state political committees; political committee responsibilities.*

Prior to accepting contributions of \$10,000 or more in the aggregate in any calendar year from any one federal political action committee or out-of-state political committee, a political committee shall (i) request request the federal political action committee's or out-of-state political committee's State Board of Elections registration number from the committee and (ii) verify that number with the State Board.

§ 24.2-922. *Reports as condition to qualification for office.*

A. No person shall be permitted to qualify for any office, enter upon the duties thereof, or receive any salary or emoluments therefrom until he has filed the reports required in subdivisions 3 through 9 of § 24.2-916; subdivisions 1, 2 and 3 of § 24.2-917; and subdivisions B 1 and B 3 of § 24.2-918, as applicable; and a final report if required by subsection C of § 24.2-906.1. *No person shall be permitted to qualify for any office, enter upon the duties thereof, or receive any salary or emoluments therefrom until he has paid any civil penalty and returned any contribution required to be returned pursuant to § 24.2-930.1.* No officer authorized by the laws of the Commonwealth to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the reports cited above have been filed as required in this article.

B. Notwithstanding the requirements of subsection A, a person who is elected to fill a vacancy at a special election held on a general election day may qualify for the office and be issued a certificate of election in advance of filing the postelection report required to be filed under subdivision 9 of § 24.2-916 in the case of a November election, or under subdivision 3 of § 24.2-917 in the case of a May election, upon the filing of a postelection report complete through the election day.

§ 24.2-930.1. *Additional penalties related to federal political action or out-of-state political committees.*

A. *Acceptance of contributions of \$10,000 or more in the aggregate in any calendar year from an unregistered federal political action committee or out-of-state political committee shall result in a civil penalty equal to the amount of the contributions made to a candidate campaign committee or political committee.*

B. *The provisions of this subsection are applicable regardless of the assessment of a civil penalty pursuant to subsection A. The failure of any federal political action committee or out-of-state political committee to comply with the provisions of § 24.2-908, 24.2-908.2, 24.2-910.2, or 24.2-910.3 shall result in a civil penalty not to exceed the amount of the contribution made to a candidate campaign committee or political committee.*

C. *The State Board of Elections shall institute proceedings pursuant to § 24.2-104 against any committee that fails to comply with the provisions of § 24.2-907.1, 24.2-908, 24.2-908.2, 24.2-910.2, 24.2-910.3, or 24.2-910.4 and, after notice by the State Board, continues for more than five days to remain noncompliant.*