

VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

CHAPTER 246

An Act to amend and reenact §§ 24.2-945.1 and 24.2-949.2 of the Code of Virginia, relating to campaign finances; definitions; political action committees; statements of organization.

[H 2852]

Approved March 12, 2007

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-945.1 and 24.2-949.2 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-945.1. Definitions.

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

"Authorization" means express approval or express consent by the candidate, the candidate's campaign committee, or an agent of the candidate or his campaign committee after coordination.

"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.

"Candidate" means "candidate" as defined in § 24.2-101.

"Contribution" means money and services of any amount, in-kind contributions, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political 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 a filing fee for any party nomination method.

"Coordinated" or "coordination" refers to an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"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, 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 organization, person, or group of persons 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, candidate campaign committee, or political committee that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee. "Independent expenditure" includes an expenditure made by a candidate campaign committee (i) that is not related to the candidate's own campaign and (ii) that is not made to, controlled by, coordinated with, or made with the authorization of a different candidate, his campaign committee, or an agent of that candidate or his campaign committee.

"In-kind contribution" means the donation of goods, services, property, or other thing of value, other than money, including an expenditure controlled by, coordinated with, or made upon the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee, that is provided for free or less than the usual and normal charge. The basis for arriving at the dollar value of an in-kind contribution is as follows: new items are valued at retail value; used items are valued at fair market value; and services rendered are valued at the actual cost of service per hour. Services shall not be deemed to include personal services voluntarily rendered for which no compensation is asked or given.

"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 are 75% or less of their total expenditures in any calendar year that does not have as its primary purpose to influence the outcome of nonfederal elections in Virginia.~~ 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, person, or group of persons, established or maintained ~~in whole or in part~~ to receive and expend contributions for the *primary* purpose of influencing the outcome of ~~any election~~ *nonfederal elections in Virginia*. The term shall not include a campaign committee, federal political action committee, out-of-state political committee, political party committee, referendum committee, or inaugural committee.

"Political committee" means and includes any political action committee, political party committee, referendum committee, or inaugural committee. The term shall not include: (i) a federal political action committee or out-of-state political committee; (ii) a campaign committee; (iii) a political party committee exempted pursuant to § 24.2-950.1; or (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 this chapter or independent expenditures which are reportable by him to the extent required by § 24.2-945.2, or a combination of such reportable contributions and independent expenditures.

"Political party committee" means any state political party committee, congressional district political party committee, county or city political party committee, other election district political party committee, or organized political party group of elected officials. This definition is subject to the provisions of § 24.2-950.1.

"Primary purpose" means that 50% or more of the committee's expenditures made in the form of contributions shall be made to candidate campaign committees or political committees registered in Virginia. Administrative expenditures and the transfer of funds between affiliated or connected organizations shall not be considered in determining the committee's primary purpose. The primary purpose of the committee shall not be determined on the basis of only one report or election cycle, but over the entirety of the committee's registration.

"Referendum committee" means any organization, person, group of persons, or committee, that makes expenditures in a calendar year in excess of (i) \$10,000 to advocate the passage or defeat of a statewide referendum, (ii) \$5,000 to advocate the passage or defeat of a referendum being held in two or more counties and cities, or (iii) \$1,000 to advocate the passage or defeat of a referendum held in a single county or city.

"Residence" means "residence" or "resident" as defined in § 24.2-101.

"Statewide office" means the office of Governor, Lieutenant Governor, or Attorney General.

B. For the purpose of applying the filing and reporting requirements of this chapter, the terms "person" and "political committee," shall not include an organization holding tax-exempt status under § 501(c) (3), 501(c) (4), or 501(c) (6) of the United States Internal Revenue Code which, in providing information to voters, does not advocate or endorse the election or defeat of a particular candidate, group of candidates, or the candidates of a particular political party.

§ 24.2-949.2. Statement of organization for a political action committee.

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

The statement of organization shall include:

1. The name of the political action committee and its address in the Commonwealth;
2. The names, addresses, and relationships of affiliated or connected organizations;
3. The area, scope, or jurisdiction of the political action committee *accompanied by the statement that the primary purpose of the committee is to influence the outcome of nonfederal elections in Virginia*;
4. The name and business address of the treasurer and his residence address in the Commonwealth who shall be deemed the agent of the political action committee for the purpose of service of process on the political action committee;
5. The name, residence address in the Commonwealth, business address, and position of the custodian of the books and accounts, who works under the direction of the treasurer, and the address in the Commonwealth where the books are maintained;
6. The name, address, office sought, and party affiliation of each individual whom the political action committee is supporting or opposing for nomination or for election to any public office whatever or, if supporting the entire ticket of any party, the name of the party;
7. The designated depository to be used for the receipt and holding of funds and contributions received by the political action committee, in an account in a financial institution within the Commonwealth; and
8. Such other information as shall be required by the State Board except that the account number for the designated depository account shall not be required.

The State Board shall not register or issue a registration number to any political action committee that fails to state pursuant to subdivision 3 that its primary purpose is to influence the outcome of nonfederal elections in Virginia.

B. Notwithstanding the provisions of subsection A, a political action committee that is established or controlled by a corporation doing business in Virginia shall provide the following information in its statement of organization in lieu of the information required in subdivisions 1, 4, 5, and 7 of subsection A:

1. The name and address of the political action committee;
2. The name and residence and business addresses of the treasurer;
3. The name, residence address, and position of the custodian of the books who works under the direction of the treasurer; 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;
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.

2. That the provisions of this act shall be applied only to a committee's expenditure of those funds that are received by the committee on or after July 1, 2007.