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## HOUSE BILL NO. 1149

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 24.2-945.1, 24.2-947.4, 24.2-949.5, 24.2-949.9:2, 24.2-950.4, 24.2-951.3, and 24.2-952.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6, relating to campaign finance; disclosure of controlling individuals.

Patron—Scott, J.M.

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 24.2-945.1, 24.2-947.4, 24.2-949.5, 24.2-949.9:2, 24.2-950.4, 24.2-951.3, and 24.2-952.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6 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 expressly advocating the election or defeat of a clearly identified candidate or to an inaugural committee for the purpose of 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.

"Controlling individual" means any individual who owns or controls more than 50 percent of the voting shares of a corporation, partnership, business, or other like entity.

"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.

"Designated contribution" means a contribution that is designated specifically and in writing for a particular candidate or candidates and that is made using a political committee solely as a conduit.

"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 expressly advocating the election or defeat of a clearly identified candidate or by any inaugural committee for the purpose of 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

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59 a candidate, his campaign committee, or an agent of the candidate or his campaign committee, that is  
60 provided for free or less than the usual and normal charge. The basis for arriving at the dollar value of  
61 an in-kind contribution is as follows: new items are valued at retail value; used items are valued at fair  
62 market value; and services rendered are valued at the actual cost of service per hour. Services shall not  
63 be deemed to include personal services voluntarily rendered for which no compensation is asked or  
64 given.

65 "Out-of-state political committee" means an entity covered by § 527 of the United States Internal  
66 Revenue Code that is not registered as a political committee or candidate campaign committee in  
67 Virginia and that does not have as its primary purpose expressly advocating the election or defeat of a  
68 clearly identified candidate. The term shall not include a federal political action committee.

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

71 "Political action committee" means any organization, person, or group of persons, established or  
72 maintained to receive and expend contributions for the primary purpose of expressly advocating the  
73 election or defeat of a clearly identified candidate. The term shall not include a campaign committee,  
74 federal political action committee, out-of-state political committee, political party committee, referendum  
75 committee, or inaugural committee.

76 "Political committee" means and includes any political action committee, political party committee,  
77 referendum committee, or inaugural committee. The term shall not include: (i) a federal political action  
78 committee or out-of-state political committee; (ii) a campaign committee; (iii) a political party committee  
79 exempted pursuant to § 24.2-950.1; or (iv) a person who receives no contributions from any source and  
80 whose only expenditures are made solely from his own funds and are either contributions made by him  
81 which are reportable by the recipient pursuant to this chapter or independent expenditures which are  
82 reportable by him to the extent required by § 24.2-945.2, or a combination of such reportable  
83 contributions and independent expenditures.

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

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

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

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

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

101 B. For the purpose of applying the filing and reporting requirements of this chapter, the terms  
102 "person" and "political committee," shall not include an organization holding tax-exempt status under  
103 § 501(c) (3), 501(c) (4), or 501(c) (6) of the United States Internal Revenue Code which, in providing  
104 information to voters, does not advocate or endorse the election or defeat of a particular candidate,  
105 group of candidates, or the candidates of a particular political party.

106 § 24.2-947.4. Information to be included on campaign finance reports for campaign committees.

107 A. The reports required by this article shall be filed on a form prescribed by the State Board and  
108 shall include all financial activity of the campaign committee. All completed forms shall be submitted in  
109 typed, printed, or legibly hand printed format or electronically as provided in § 24.2-946.1. Persons  
110 submitting the forms shall do so subject to felony penalties for making false statements pursuant to  
111 § 24.2-1016.

112 B. The report of receipts shall include:

113 1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less,  
114 including cash and in-kind contributions, as of the date of the report, and the total amount of  
115 contributions from all such contributors;

116 2. For each contributor who has contributed an aggregate of more than \$100, including cash and  
117 in-kind contributions, as of the ending date of the report, the campaign committee shall itemize each  
118 contributor on the report and list the following information:

119 a. the name of the contributor, listed alphabetically,

120 b. the mailing address of the contributor,

- c. the amount of the contribution,
  - d. the aggregate amount of contributions from the contributor to date,
  - e. the date of the contribution,
  - f. the occupation of the contributor,
  - g. the name of his employer or principal business, and
  - h. the city and state where employed or where his business is located.
- For each such contributor, other than an individual, *(i) the principal type of business and place of business of the contributor shall be substituted for subdivisions f and g, respectively, and (ii) the name and address of any controlling individual shall be provided.* For each such contributor other than an individual, it shall be sufficient to list the address of the contributor *and the name and address of any controlling individual* one time on the report of receipts.
3. For each designated contribution received by the campaign committee from a political committee, out-of-state political committee, or federal political action committee, the campaign committee shall list the name of the person who designated the contribution and provide the information required by this subsection.
- C. The report of disbursements shall include all expenditures and give:
- 1. The name and address of the person paid;
  - 2. A brief description of the purpose of the expenditure;
  - 3. The name of the person contracting for or arranging the expenditure;
  - 4. The amount of the expenditure; and
  - 5. The date of the expenditure.
- The report of disbursements shall itemize any expenditure made by credit card payment.
- D. Each report for a candidate shall list separately those receipts and expenditures reported to the candidate or his treasurer by any person, campaign committee, or political committee pursuant to subsection D of § 24.2-947.3, and in the case of in-kind contributions, shall set forth in each instance the source of the information reported.
- E. The report shall list separately all loans and, for each loan, shall give:
- 1. The date the loan was made;
  - 2. The name and address of the person making the loan and any person who is a co-borrower, guarantor, or endorser of the loan;
  - 3. The amount of the loan;
  - 4. The date and amount of any repayment of the loan; and
  - 5. For any loan or part of a loan that is forgiven by the lender, the amount forgiven listed as both a contribution and loan repayment.
- F. The State Board shall provide for a "no activity" report that may be filed for any reporting period in which the filer has no activity to report.
- G. It is the joint responsibility of the candidate and his treasurer that the report of a candidate be filed, that the report be in full and accurate detail, and that the report be received by the State Board, local electoral board, or both, by the deadline for filing the report.
- § 24.2-949.5. Information to be included on campaign finance reports for political action committees.
- A. The reports required by this article shall be filed on a form prescribed by the State Board and shall include all financial activity of the political action committee. All completed forms shall be submitted in typed, printed, or legibly hand printed format or electronically as provided in § 24.2-946.1. Persons submitting the forms shall do so subject to felony penalties for making false statements pursuant to § 24.2-1016.
- B. The report of receipts shall include:
- 1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less, including cash and in-kind contributions, as of the date of the report, and the total amount of contributions from all such contributors;
  - 2. For each contributor who has contributed an aggregate of more than \$100, including cash and in-kind contributions, as of the ending date of the report, the political action committee shall itemize each contributor on the report and list the following information:
    - a. the name of the contributor, listed alphabetically,
    - b. the mailing address of the contributor,
    - c. the amount of the contribution,
    - d. the aggregate amount of contributions from the contributor to date,
    - e. the date of the last contribution,
    - f. the occupation of the contributor,
    - g. the name of his employer or principal business, and
    - h. the locality where employed or where his business is located.
- For each such contributor, other than an individual, *(i) the principal type of business and place of*

182 business of the contributor shall be substituted for subdivisions f and g, respectively, *and (ii) the name*  
183 *and address of any controlling individual shall be provided.* For each such contributor other than an  
184 individual, it shall be sufficient to list the address of the contributor *and the name and address of any*  
185 *controlling individual* one time on the report of receipts.

186 C. Upon transfer of a designated contribution to a designated candidate's campaign committee, the  
187 committee shall provide information to the campaign committee to identify the contributor as provided  
188 by § 24.2-947.4.

189 D. The report of disbursements shall include all expenditures and give:

- 190 1. The name and address of the person paid;
- 191 2. A brief description of the purpose of the expenditure;
- 192 3. The name of the person contracting for or arranging the expenditure;
- 193 4. The amount of the expenditure; and
- 194 5. The date of the expenditure.

195 The report of disbursements shall itemize any expenditure made by credit card payment.

196 E. Each report for a political action committee shall list separately those receipts and expenditures  
197 reported to the treasurer or other officer of the committee by any person, candidate campaign committee,  
198 or political committee, pursuant to subsection B of § 24.2-949.4, and in the case of in-kind  
199 contributions, shall set forth in each instance the source of the information reported.

200 F. The report shall list separately all loans, and for each loan, shall give:

- 201 1. The date the loan was made;
- 202 2. The name and address of the person making the loan and any person who is a co-borrower,  
203 guarantor, or endorser of the loan;
- 204 3. The amount of the loan;
- 205 4. The date and amount of any repayment of the loan; and
- 206 5. For any loan or part of a loan that is forgiven by the lender, the amount forgiven listed as both a  
207 contribution and loan repayment.

208 G. The State Board shall provide for a "no activity" report that may be filed for any reporting period  
209 in which the filer has no activity to report.

210 H. It is the responsibility of the treasurer that the report for the political action committee be filed  
211 and that the report be in full and accurate detail.

212 § 24.2-949.9:2. Out-of-state political committees; reporting requirements.

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

214 B. After the committee has met the requirements of § 24.2-949.9:1 and upon making any contribution  
215 to a candidate campaign committee or political committee registered in Virginia, the committee shall  
216 report its contributions and contributors in accordance with subsection C to the State Board of Elections  
217 by computer or electronic means as prescribed in § 24.2-946.1.

218 C. The report required by subsection B shall include (i) a report of the contributions the committee  
219 has made to candidate campaign committees or political committees in the Commonwealth since the  
220 filing of a report of its contributions pursuant to subsection D of § 24.2-949.9:1 or this subsection during  
221 the period covered by the report and (ii) a list of each contributor who has contributed to the committee  
222 \$2,500 or more in the aggregate since the filing of a list of its contributors pursuant to subsection D of  
223 § 24.2-949.9:1 or this subsection with the contributor's name, address, occupation, employer, and place  
224 of business and the dates and amounts of the contributor's contributions during the period covered by  
225 the report. *For each such contributor, other than an individual, the name and address of any controlling*  
226 *individual shall be provided.*

227 D. Upon transfer of a designated contribution to a designated candidate's campaign committee, the  
228 committee shall provide information to the campaign committee to identify the contributor as provided  
229 by § 24.2-947.4.

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

234 § 24.2-950.4. Information to be included on campaign finance reports for political party committees.

235 A. The reports required by this article shall be filed on a form prescribed by the State Board and  
236 shall include all financial activity of the political party committee. All completed forms shall be  
237 submitted in typed, printed, or legibly hand printed format or electronically as provided in § 24.2-946.1.  
238 Persons submitting the forms shall do so subject to felony penalties for making false statements pursuant  
239 to § 24.2-1016.

240 B. The report of receipts shall include:

- 241 1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less,  
242 including cash and in-kind contributions, as of the date of the report, and the total amount of  
243 contributions from all such contributors;

2. For each contributor who has contributed an aggregate of more than \$100, including cash and in-kind contributions, as of the ending date of the report, the political party committee shall itemize each contributor on the report and list the following information:

- a. the name of the contributor, listed alphabetically,
- b. the mailing address of the contributor,
- c. the amount of the contribution,
- d. the aggregate amount of contributions from the contributor to date,
- e. the date of the last contribution,
- f. the occupation of the contributor,
- g. the name of his employer or principal business, and
- h. the locality where employed or where his business is located.

For each such contributor, other than an individual, (i) the principal type of business and place of business of the contributor shall be substituted for subdivisions f and g, respectively, and (ii) the name and address of any controlling individual shall be provided. For each such contributor other than an individual, it shall be sufficient to list the address of the contributor and the name and address of any controlling individual one time on the report of receipts.

C. Upon transfer of a designated contribution to a designated candidate's campaign committee, the committee shall provide information to the campaign committee to identify the contributor as provided by § 24.2-947.4.

D. The report of disbursements shall include all expenditures and give:

1. The name and address of the person paid;
2. A brief description of the purpose of the expenditure;
3. The name of the person contracting for or arranging the expenditure;
4. The amount of the expenditure; and
5. The date of the expenditure.

The report of disbursements shall itemize any expenditure made by credit card payment.

E. Each report for a political party committee shall list separately those receipts and expenditures reported to the treasurer or other officer of the committee by any person, campaign committee, or political committee pursuant to subsection B of § 24.2-950.3, and in the case of in-kind contributions, shall set forth in each instance the source of the information reported.

F. The report shall list separately all loans, and for each loan, shall give:

1. The date the loan was made;
2. The name and address of the person making the loan and any person who is a co-borrower, guarantor, or endorser of the loan;
3. The amount of the loan;
4. The date and amount of any repayment of the loan; and
5. For any loan or part of a loan that is forgiven by the lender, the amount forgiven listed as both a contribution and loan repayment.

G. The State Board shall provide for a "no activity" report that may be filed for any reporting period in which the filer has no activity to report.

H. It is the responsibility of the treasurer that the report for the political party committee be filed and that the report be in full and accurate detail.

§ 24.2-951.3. Information to be included on campaign finance reports for referendum committees.

A. The reports required by this article shall be filed on a form prescribed by the State Board and shall include all financial activity of the referendum committee. All completed forms shall be submitted in typed, printed, or legibly hand printed format or electronically as provided in § 24.2-946.1. Persons submitting the forms shall do so subject to felony penalties for making false statements pursuant to § 24.2-1016.

B. The report of receipts shall include:

1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less, including cash and in-kind contributions, as of the date of the report, and the total amount of contributions from all such contributors;

2. For each contributor who has contributed an aggregate of more than \$100, including cash and in-kind contributions, as of the ending date of the report, the referendum committee shall itemize each contributor on the report and list the following information:

- a. the name of the contributor, listed alphabetically,
- b. the mailing address of the contributor,
- c. the amount of the contribution,
- d. the aggregate amount of contributions from the contributor to date,
- e. the date of the last contribution,
- f. the occupation of the contributor,

305 g. the name of his employer or principal business, and

306 h. the locality where employed or where his business is located.

307 For each such contributor, other than an individual, (i) the principal type of business and place of  
308 business of the contributor shall be substituted for subdivisions f and g, respectively, and (ii) the name  
309 and address of any controlling individual shall be provided. For each such contributor other than an  
310 individual, it shall be sufficient to list the address of the contributor and the name and address of any  
311 controlling individual one time on the report of receipts.

312 C. The report of disbursements shall include all expenditures and give:

313 1. The name and address of the person paid;

314 2. A brief description of the purpose of the expenditure;

315 3. The name of the person contracting for or arranging the expenditure;

316 4. The amount of the expenditure; and

317 5. The date of the expenditure.

318 The report of disbursements shall itemize any expenditure made by credit card payment.

319 D. Each report for a referendum committee shall list separately those receipts and expenditures  
320 reported to the treasurer or other officer of the committee by any person, campaign committee, or  
321 political committee, pursuant to subsection B of § 24.2-951.2 and, in the case of in-kind contributions,  
322 shall set forth in each instance the source of the information reported.

323 E. The report shall list separately all loans and, for each loan, shall give:

324 1. The date the loan was made;

325 2. The name and address of the person making the loan and any person who is a co-borrower,  
326 guarantor, or endorser of the loan;

327 3. The amount of the loan;

328 4. The date and amount of any repayment of the loan; and

329 5. For any loan or part of a loan that is forgiven by the lender, the amount forgiven listed as both a  
330 contribution and loan repayment.

331 F. The State Board shall provide for a "no activity" report that may be filed for any reporting period  
332 in which the filer has no activity to report.

333 G. It is the responsibility of the treasurer that the report for the referendum committee be filed and  
334 that the report be in full and accurate detail.

335 § 24.2-952.3. Information to be included on campaign finance reports for inaugural committees.

336 A. The reports required by this article shall be filed on a form prescribed by the State Board and  
337 shall include all financial activity of the inaugural committee. All completed forms shall be submitted in  
338 typed, printed, or legibly hand printed format or electronically as provided in § 24.2-946.1. Persons  
339 submitting the forms shall do so subject to felony penalties for making false statements pursuant to  
340 § 24.2-1016.

341 B. The report of receipts shall include:

342 1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less,  
343 including cash and in-kind contributions, as of the date of the report, and the total amount of  
344 contributions from all such contributors;

345 2. For each contributor who has contributed an aggregate of more than \$100, including cash and  
346 in-kind contributions, as of the ending date of the report, the campaign committee shall itemize each  
347 contributor on the report and list the following information:

348 a. the name of the contributor, listed alphabetically,

349 b. the mailing address of the contributor,

350 c. the amount of the contribution,

351 d. the aggregate amount of contributions from the contributor to date,

352 e. the date of the last contribution,

353 f. the occupation of the contributor,

354 g. the name of his employer or principal business, and

355 h. the locality where employed or where his business is located.

356 For each such contributor, other than an individual, (i) the principal type of business and place of  
357 business of the contributor shall be substituted for subdivisions f and g, respectively, and (ii) the name  
358 and address of any controlling individual shall be provided. For each such contributor other than an  
359 individual, it shall be sufficient to list the address of the contributor and the name and address of any  
360 controlling individual one time on the report of receipts.

361 C. The report of disbursements shall include all expenditures and give:

362 1. The name and address of the person paid;

363 2. A brief description of the purpose of the expenditure;

364 3. The name of the person contracting for or arranging the expenditure;

365 4. The amount of the expenditure; and

366 5. The date of the expenditure.

367 The report of disbursements shall itemize any expenditure made by credit card payment.

368 D. Each report for an inaugural committee shall list separately those receipts and expenditures  
 369 reported to the treasurer or other officer of the committee by any person, candidate campaign committee,  
 370 political committee, pursuant to subsection B of § 24.2-952.2, and in the case of in-kind contributions,  
 371 shall set forth in each instance the source of the information reported.

372 E. The report shall list separately all loans, and for each loan, shall give:

373 1. The date the loan was made;

374 2. The name and address of the person making the loan and any person who is a co-borrower,  
 375 guarantor, or endorser of the loan;

376 3. The amount of the loan;

377 4. The date and amount of any repayment of the loan; and

378 5. For any loan or part of a loan that is forgiven by the lender, the amount forgiven listed as both a  
 379 contribution and loan repayment.

380 F. The State Board shall provide for a "no activity" report that may be filed for any reporting period  
 381 in which the filer has no activity to report.

382 G. It is the responsibility of the treasurer that the report for the inaugural committee be filed and that  
 383 the report be in full and accurate detail.

384 § 24.2-953.6. *Failure to disclose controlling individual.*

385 A. *It shall be unlawful for any corporation, partnership, business, or other like entity to make or*  
 386 *promise to make any contribution to any campaign committee, political committee, or out-of-state*  
 387 *political committee without disclosing to the recipient committee the name and address of any*  
 388 *controlling individual.*

389 B. *It shall be unlawful for any controlling individual to make or promise to make through a*  
 390 *corporation, partnership, business, or other like entity any contribution to any campaign committee,*  
 391 *political committee, or out-of-state political committee without disclosing to the recipient committee his*  
 392 *own name and address.*

393 C. *It shall be unlawful for any member of the General Assembly, statewide official, campaign*  
 394 *committee, political committee, or out-of-state political committee to solicit or accept a contribution*  
 395 *from any corporation, partnership, business, or other like entity for any campaign committee, political*  
 396 *committee, or out-of-state political committee without (i) requiring the contributor to disclose the name*  
 397 *and address of any controlling individual and (ii) including the name and address of any controlling*  
 398 *individual in any reports on the contribution required in this chapter.*

399 D. *Any person who violates, or aids, abets, or participates in the violation of this section shall be*  
 400 *subject to a civil penalty equal to the amount of the prohibited contribution or promised contribution or*  
 401 *\$500, whichever amount is greater. The attorney for the Commonwealth shall initiate civil proceedings*  
 402 *to enforce the civil penalty provided herein. Any civil penalties collected shall be payable to the State*  
 403 *Treasurer for deposit to the general fund.*