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SENATE BILL NO. 119

Offered January 13, 2010

Prefiled January 6, 2010

A *BILL to amend the Code of Virginia by adding in Chapter 9.3 of Title 24.2 an article numbered 7.1, consisting of sections numbered 24.2-952.8 through 24.2-952.12, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6, relating to campaign finance; contribution limits.*

Patron—Petersen

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 9.3 of Title 24.2 an article numbered 7.1, consisting of sections numbered 24.2-952.8 through 24.2-952.12, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6 as follows:

*Article 7.1.**Contribution Limits.*

§ 24.2-952.8. *Limits on contributions to candidates for statewide office and the General Assembly.*

A. No person, other than a political party committee or political action committee, shall make contributions to a candidate for Governor, Lieutenant Governor, Attorney General, or for the General Assembly that, in the aggregate, exceed \$20,000 for any one candidate in any one general or special election, and \$10,000 for any one candidate in the immediately preceding primary election or other method of political party nomination other than a primary. However, no such person shall make contributions that, in the aggregate, exceed \$10,000 for any one candidate in any one general or special election if such person has made contributions to the candidate in the immediately preceding primary election or other method of political party nomination other than a primary.

B. No political action committee shall make contributions to a candidate for Governor, Lieutenant Governor, Attorney General, or for the General Assembly that, in the aggregate, exceed \$50,000 for any one candidate in any one general or special election, and \$25,000 for any one candidate in the immediately preceding primary election or other method of political party nomination other than a primary. However, no such committee shall make contributions that, in the aggregate, exceed \$25,000 for any one candidate in any one general or special election if such committee has made contributions to the candidate in the immediately preceding primary election or other method of political party nomination other than a primary.

C. No candidate shall solicit or accept contributions in excess of the limits set forth in this section.

D. The limits on contributions set forth in this section shall not apply to the following:

1. Contributions by the candidate to his own campaign;

2. Contributions by the candidate's spouse, children, parents, or siblings to the candidate; or

3. Contributions by a political party committee to the candidate.

E. For purposes of this article, the term "candidate" means the candidate, the candidate's treasurer, and the candidate's campaign committee. Any contribution to the candidate's treasurer or campaign committee shall be deemed to be a contribution to the candidate.

F. The limits set forth in this section shall apply without regard to whether the candidate is opposed or unopposed in the election or nomination process.

G. A contributor may designate all or a portion of a contribution made by him during the 60 days following the primary date as a contribution for the primary or other nomination process. Contributions made after the primary date shall be deemed contributions for the special or general election unless otherwise designated as provided in this subsection.

H. A candidate who is defeated in the primary or nomination process and has a campaign deficit may continue to accept contributions to retire the deficit subject to the limits applicable to the primary or nomination process.

I. The candidate shall report separately (i) contributions received prior to the primary date or designated for the primary or other nominating method pursuant to subsection G and (ii) contributions received after the primary date and not so designated. Candidates may otherwise maintain records of receipts and expenditures for the campaign both before and after the primary date on a continuing basis.

J. Any contribution or portion thereof returned within 60 days after receipt shall not be deemed to be a contribution for the purposes of applying the limits set forth in this section.

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§ 24.2-952.9. *Prohibition on indirect contributions.*

For purposes of applying the contribution limits set forth in § 24.2-952.8, all direct or indirect contributions made by a person to benefit a candidate, including any contributions that are knowingly earmarked or otherwise directed through any other person, political committee, political party committee, or political action committee shall be treated as contributions from such person to such candidate.

§ 24.2-952.10. *Aggregation of contributions.*

For purposes of applying the contribution limits set forth in § 24.2-952.8:

1. All contributions made by a person or political action committee whose contribution or expenditure activity is financed, maintained, or controlled by the same corporation, labor organization, association, or any other person, including a parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, association, or any other person, or by any group of such persons shall be considered to be made by the same person or political action committee; and

2. For entities not described in subdivision 1, two or more entities will be treated as a single entity sharing the same contribution limit if the entities (i) share the majority of members on their boards of directors and share two or more officers; (ii) are owned or controlled by the same majority shareholder or shareholders; (iii) are in a parent-subsidiary relationship; or (iv) have bylaws stating that one organization has the power to control the other.

§ 24.2-952.11. *Attribution and aggregation of family contributions.*

For purposes of applying the contribution limits set forth in § 24.2-952.8:

1. Contributions by a husband and wife are considered separate contributions and not aggregated; and

2. Contributions by unemancipated children under 18 years of age are considered contributions by their parents and attributed proportionately to each parent. Fifty percent of the contributions are attributed to each parent, or, in the case of a single custodial parent, the total amount is attributed to the parent.

§ 24.2-952.12. *Restrictions on loans.*

A loan is considered a contribution from the maker and the guarantor of the loan and is subject to the contribution limits set forth in § 24.2-952.8. A loan to a candidate or the candidate's campaign committee must be by written agreement. The proceeds of a loan made to a candidate will not be subject to the contribution limits stated in § 24.2-952.8 if the loan (i) is made by the candidate to his own campaign committee or (ii) is made by a commercial lending institution in the regular course of business and on the same terms ordinarily available to members of the public and is secured or guaranteed only by the candidate.

§ 24.2-953.6. *Violation of contribution limits.*

A candidate whose campaign committee knowingly accepts contributions in excess of the limits imposed in Article 7.1 (§ 24.2-952.8 et seq.) of this chapter shall be subject to a civil penalty of up to two times the amount by which the contribution exceeds the limit. A contributor who knowingly makes a contribution in excess of the limits imposed in this chapter shall be subject to a civil penalty of up to two times the amount by which the contribution exceeds the limit.

The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties provided in this chapter. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund.