

Department of Planning and Budget

2018 Fiscal Impact Statement

1. Bill Number: HB122-H1

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Cole

3. Committee: Courts of Justice

4. Title: Campaign finance; prohibited personal use; Virginia Conflict of Interest and Ethics Advisory Council; civil penalty.

- 5. Summary:** Prohibits the use of contributions to a candidate or campaign committee, or the use or conversion of items acquired using such contributions, for a strictly personal purpose that has no intended, reasonable, or foreseeable benefit to the candidate's campaign or public office. Complaints of alleged violations may be made by any person who contributes to the candidate or candidate's campaign committee to the State Board of Elections. Complaints shall contain objections to a specific use of campaign contributions, accompanied by the reasons believed to be in violation. The subject of the complaint has 30 days to either (i) reimburse the campaign committee the complained-of amount or (ii) provide to the State Board documentation or other evidence that the use of the campaign funds had an intended, reasonable, or foreseeable benefit to the campaign or the candidate's public office. If the subject of the complaint provides documentation or other evidence, the State Board shall review, in a closed meeting, the response and determine whether the use of campaign funds had any intended, reasonable, or foreseeable benefit to the campaign or the candidate's public office. A public hearing shall be called if the State Board finds no such benefit and the complained-of amount has not been reimbursed. If the complaining party declines to participate in the hearing, the complaint shall be dismissed. A person found by a unanimous vote of the State Board to have willfully and knowingly violated this section shall repay to the campaign committee the amount unlawfully converted to personal use of the candidate or a member of the candidate's immediate family. The State Board may also assess an additional civil penalty, in an amount not to exceed \$250.

The substitute bill also requires the Virginia Conflict of Interest and Ethics Advisory Council to develop guidance on the provisions of the Campaign Finance Disclosure Act of 2006 (§ 24.2-945 et seq. of the Code of Virginia), as amended, that prohibit the personal use of campaign funds, conduct training, and provide formal advisory opinions regarding such provisions upon request.

The substitute bill has a delayed effective date of July 1, 2019.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate – see Item 8.

- 8. Fiscal Implications:** The State Board of Elections (SBE) does not conduct investigations involving campaign finance violations as required in the proposed legislation. The impact of reviewing allegations of campaign finance violations is indeterminate and would depend upon the number of complaints. There is no existing data upon which the level of resources needed to carry out the functions outlined in the bill can be estimated. However, SBE and the Department of Elections (ELECT) currently have very limited capacity to absorb additional workload with its current staffing level. Therefore, additional staffing may be required in order to carry out the functions required in the bill such as gathering documentation and notifying parties of complaints. For illustration purposes, if the workload were to warrant a full time position, the Department of Elections estimates the cost of a full time Hearing and Legal Services Manager I would be \$154,143.

Some ancillary costs to implement this legislation could be absorbed by the agency, such as updating instructions and guidance documents to include translation, if needed, changes to the campaign finance reporting system, changes to web materials, printing and distribution of forms, additional support for staff to research Code sections and update forms impacted by the legislation, and training to assure candidates and voters are aware of any new requirements.

The proposed legislation authorizes the State Board of Elections to assess and collect a civil penalty of up to \$250 from anyone found to have willfully and knowingly violated personal use prohibitions. The civil penalty shall be payable to the State Treasurer and deposited into the general fund. The proposed legislation may have a revenue impact; however, the number of the civil penalties assessed and collected as a result of the proposed legislation cannot be determined.

The bill requires the Virginia Conflict of Interest and Ethics Advisory Council to develop guidance on the provisions of the Campaign Finance Disclosure Act of 2006 (§ 24.2-945 et seq. of the Code of Virginia), as amended, that prohibit the personal use of campaign funds, conduct training, and provide formal advisory opinions regarding such provisions upon request. The Division of Legislative Services and the Ethics Council can absorb any impact within existing resources.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Elections, State Board of Elections, Division of Legislative Services, and the Virginia Conflict of Interest and Ethics Advisory Council

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is similar to HB 5 and SB 592.

Date: 2/12/2018