

Department of Planning and Budget 2019 Fiscal Impact Statement

1. **Bill Number:** HB1699

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

2. **Patron:** Simon

3. **Committee:** Privileges and Elections

4. **Title:** Campaign finance; prohibited personal use of campaign funds, civil penalty.

5. **Summary:** Prohibits any person from making personal use of campaign contributions to a candidate or his campaign committee, or 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. Any person who contributes to a candidate or a candidate's campaign committee or who is qualified to vote for a candidate may file a written complaint with the State Board of Elections (State Board) alleging a violation of the personal use prohibition by such candidate, and the State Board is tasked with reviewing the specific use alleged in the complaint. Additionally, the State Board may initiate a review of a specific use of campaign contributions on its own motion. The subject of the review 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 review provides such documentation or other evidence, the State Board shall review the response and determine whether the use of campaign funds had any such benefit to the campaign or the candidate's public office. If the State Board determines that there were no intended, reasonable, or foreseeable benefits and the complained-of amount has not been reimbursed, it shall call a public hearing. A person found by a unanimous vote of the State Board to have willfully and knowingly violated the prohibition on personal use of campaign funds must repay to the campaign committee the amount unlawfully converted to the 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 \$1,000. The bill also authorizes the State Board to provide, upon request, to any person subject to the personal use prohibition a formal advisory opinion regarding a specific use of campaign funds. The bill also requires the State Board to develop and publish guidance on the personal use prohibition.

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 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 \$153,547.

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 from anyone who has converted any contributed moneys, securities, or like intangible personal property to the personal use of a candidate or a member of the candidate's immediate family. 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 Office of the Attorney General does not expect a fiscal impact from the proposed legislation.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Elections, State Board of Elections, and Office of the Attorney General.

10. Technical Amendment Necessary: No.

11. Other Comments: None.