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HOUSE BILL NO. 492

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 24.2-946 and 24.2-947.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 9.3 of Title 24.2 a section numbered 24.2-948.5, relating to campaign finance; record retention requirements and reviews of campaign finance disclosure reports.

Patrons—Bulova, Anderson, Helmer, Plum and Simon; Senator: Surovell

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-946 and 24.2-947.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 9.3 of Title 24.2 a section numbered 24.2-948.5 as follows:

§ 24.2-946. Summary of election laws; forms; instructions.

A. The State Board shall summarize the provisions of the election laws relating to the Campaign Finance Disclosure Act of 2006 and provide for distribution of this summary and prescribed forms to each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first.

B. The Board shall designate the forms required for complying with this chapter which shall be the only such forms used in complying with the provisions of this chapter.

C. The Board shall provide, with the summary required by this section, instructions for persons filing reports pursuant to this chapter to assist them in completing the reports. The instructions shall include directions for the reporting of filing fees for any party nomination method. *The instructions shall set out the requirements for retaining records and materials for implementing the review provisions of § 24.2-948.5.*

D. The Board shall provide instructions for candidates who seek election for successive terms in the same office for the filing of reports within each appropriate election cycle for the office and for the aggregation of contributions within each election cycle.

E. The Board shall provide, with the summary required by this section, to each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first, a copy of a written explanation prepared by the Attorney General of the provisions of the Act that prohibit the personal use of campaign funds. The explanation shall cover the provisions that prohibit the personal use of campaign funds and shall delineate the differences between prohibited personal uses of campaign funds and permitted uses of the funds.

§ 24.2-947.3. Campaign committee treasurer requirements and responsibilities.

A. Upon meeting any of the requirements of subsection A of § 24.2-947.1, the candidate shall appoint a single campaign treasurer who shall be a registered voter in Virginia. Every treasurer so appointed shall accept the appointment, in writing on the statement of organization, prior to the filing thereof. No individual shall act as treasurer unless the required statement of appointment has been filed. The same person may serve as campaign treasurer for more than one candidate.

B. In the event of the death, resignation, removal, or change of the treasurer, the candidate shall designate a successor and file the name and address of the successor within 10 days of the change with the State Board, general registrar, or both, as provided in subsection B of § 24.2-947.1.

C. Any candidate who fails to appoint a treasurer or successor treasurer shall be deemed to have appointed himself treasurer and shall comply as such with the provisions of this chapter.

D. All contributions and expenditures received or made by any candidate, or received or made on his behalf or in relation to his candidacy by any person, except independent expenditures, shall be paid over or delivered to the candidate's treasurer or shall be reported to the treasurer in such detail and form as to allow him to comply fully with this chapter. An independent expenditure shall be reported pursuant to § 24.2-945.2 in lieu of being reported to the candidate's treasurer.

E. The candidate or his treasurer shall keep detailed and accurate accounts of all contributions turned over to and expenditures made by the candidate or his treasurer on behalf of the candidate or his campaign committee, or reported to any candidate or his treasurer pursuant to this article. Such account shall set forth the date of the contribution or expenditure, its amount or value, the name and address of the person or committee making the contribution or to whom the expenditure was made, and the object or purpose of the contribution or expenditure. Such books and records may be destroyed or discarded at

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59 any time after (i) one year from the date of filing the final report required by § 24.2-948.4 or (ii) three
60 years after the December 31 immediately following the election, whichever last occurs, unless a court of
61 competent jurisdiction shall order their retention for a longer period.

62 F. *The treasurer shall be responsible for retaining all bank statements for, and copies of checks*
63 *issued on, the campaign depository and bills, invoices, and receipts for any expenditure greater than*
64 *\$500. The treasurer for a nonincumbent candidate shall retain such records and materials for a period*
65 *starting from the date of the designation of the campaign depository for the campaign through July 1 of*
66 *the year immediately following the year of the election. The treasurer for incumbent candidates shall*
67 *retain such records and materials for a period starting from the date that the incumbent was sworn into*
68 *office for the term being served at the time of the election through July 1 of the year immediately*
69 *following the year of the election. The treasurer shall make such records and materials available to the*
70 *Department or its designee upon request pursuant to the provisions of § 24.2-948.5.*

71 G. It shall be unlawful for any candidate, his treasurer, or any person receiving contributions or
72 making expenditures on a candidate's behalf or in relation to his candidacy, to fail to report every
73 contribution and expenditure as required by this article.

74 **§ 24.2-948.5. Reviews of campaign finance reports and records.**

75 A. *The Department shall have the authority to review the reports and records of the campaign*
76 *committees. The purposes of the review shall be to (i) reconcile the balance in the campaign depository*
77 *with the amounts reported in the candidate's reports of receipts and expenditures and (ii) review the*
78 *reports for mathematical accuracy and facial completeness including the reporting of specific*
79 *information required by law. In the performance of its review, the Department is authorized to request*
80 *the production of monthly bank statements for, and copies of checks issued on, campaign depositories*
81 *and itemized bills, invoices, and receipts for any expenditure of campaign funds in an amount greater*
82 *than \$500.*

83 B. *The Department shall review the reports and records of the campaign committees within 180 days*
84 *following the general election. The Department shall review the reports and records of all of the*
85 *campaign committees for candidates, including losing primary candidates, for statewide office; 10*
86 *percent of the campaign committees for candidates, including losing primary candidates, for the Senate*
87 *and House of Delegates; and one percent of candidates, including losing primary candidates, for all*
88 *other offices in any year in which such offices are elected. The State Board shall meet publicly to select*
89 *the campaign committees to be reviewed by a drawing that ensures selection on a random basis.*

90 C. *No review shall be conducted of a campaign committee for any office that has received less than*
91 *\$25,000 in contributions during the campaign, including the transfer of surplus funds from a prior*
92 *campaign. Campaign committees for candidates that are exempt from review pursuant to this subsection*
93 *shall not be included in the drawing provided for in subsection B or counted in determining the number*
94 *that equals the relevant percentage of the campaign committees to be reviewed.*

95 D. *In the performance of its duties under this section, the Department may employ the services of*
96 *additional personnel to the extent that appropriated funds are available to the Department for such*
97 *purpose.*

98 E. *The Department shall make a report of the results of its reviews available to the State Board, the*
99 *Governor, and the General Assembly by July 1 of each year following the election year for the office to*
100 *which the review pertains and the same shall be posted to the Department's website.*