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HOUSE BILL NO. 495

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 24.2-945.2, 24.2-946.1, 24.2-946.2, 24.2-947.1, 24.2-947.3, 24.2-947.4, 24.2-947.5, 24.2-947.9, 24.2-948.1, 24.2-948.2, and 24.2-948.3 of the Code of Virginia, relating to campaign finance; mandatory electronic filing for all candidates.

Patrons—Bulova, Anderson, Plum and Simon

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-945.2, 24.2-946.1, 24.2-946.2, 24.2-947.1, 24.2-947.3, 24.2-947.4, 24.2-947.5, 24.2-947.9, 24.2-948.1, 24.2-948.2, and 24.2-948.3 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-945.2. Persons required to file independent expenditure disclosure reports; filing deadline.

A. Any person, candidate campaign committee, or political committee that makes independent expenditures, in the aggregate during an election cycle, of \$1,000 or more for a statewide election or \$200 or more for any other election shall maintain records and report pursuant to this chapter all such independent expenditures made for the purpose of expressly advocating the election or defeat of a clearly identified candidate.

B. Independent expenditure reports shall be due (i) within 24 hours of the time when the funds were expended or (ii) within 24 hours of the time when materials, as described in subsection A of this section, are published or broadcast to the public, whichever (i) or (ii) first occurs. The reports shall be filed with the State Board if the funds were expended to support or oppose a candidate for statewide office or the General Assembly or with the general registrar of the county or city in which the candidate resides if the funds were expended to support or oppose a candidate for local office. The report filed by a political action committee or political party committee shall include the information required for a statement of organization as listed in subdivisions A 1 through A 8 of § 24.2-949.2 or subdivisions 1 through 6 of § 24.2-950.2, as appropriate, unless the committee has a current statement of organization on file with the State Board Department.

C. Independent expenditure reports required by this section may *shall* be filed electronically pursuant to § 24.2-946.1 or in writing on a form developed by the State Board. If the report is filed in writing, the report shall be (i) received by the State Board or the general registrar, as appropriate, within 24 hours of the time when the funds were expended or (ii) transmitted to the State Board or the general registrar, as appropriate, by telephonic transmission to a facsimile device within 24 hours of the time when the funds were expended with an original copy of the report mailed to the State Board or the general registrar, as appropriate, and postmarked within 24 hours of the time when the funds were expended.

§ 24.2-946.1. Standards and requirements for electronic preparation and transmittal of campaign finance disclosure reports; database.

A. The State Board shall review or cause to be developed and shall *develop and* approve standards and may *develop and approve software* for the preparation, production, and *certification*, transmittal, and receipt by computer or electronic means of campaign finance reports required by this chapter. The State Board may prescribe the method of execution and certification of and the procedures for receiving electronically filed campaign finance reports required by this chapter in the office of the State Board or any local electoral board. The State Board Department may provide campaign finance report-creation software to filers without charge or at a reasonable cost.

B. The State Board Department shall accept any campaign finance report filed by candidates for the General Assembly and statewide office required by this chapter by computer or electronic means in accordance with the standards approved by the Board and using software meeting standards approved by *it the Board*. This information shall be made available to the public promptly by the Board Department through the Internet its website.

C. The State Board of Elections Department shall develop and implement a centralized system to accept reports from candidates for local and constitutional offices. Such reports shall be filed in accordance with, and using software that meets, standards approved by the State Board. The State Board Department shall promptly notify the general registrar of the locality in which a candidate resides and make the information contained in the report available to the general registrar. In the case of a former

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59 candidate who is no longer seeking election but has not yet filed a final report as required by
60 § 24.2-948.4, the ~~State Board~~ *Department* shall promptly notify the general registrar of the locality in
61 which he sought office and make the information contained in the report available to such general
62 registrar.

63 D. The ~~State Board~~ *Department* shall enter or cause to be entered into a campaign finance database,
64 available to the public through ~~the Internet~~ *its website*, the information from required campaign finance
65 reports filed by computer, electronic, or other means by candidates for the ~~General Assembly~~ and
66 statewide office.

67 E. Other campaign finance reports required by this chapter to be filed by a committee with the State
68 Board or a general registrar, or both, may be filed electronically on terms agreed to by the committee
69 and the Board.

70 **§ 24.2-946.2. Custody of reports; inspection and copying; exception for certain information.**

71 A. All campaign finance reports required to be filed under this chapter shall be open to inspection by
72 any person during the business hours of the office in which they are filed. Copies shall be produced for
73 any person requesting them who shall pay the reasonable cost of the copies. Copies of such reports
74 certified by the principal administrative officer in whose office they are kept shall be evidence in all
75 courts to the same extent as the original report would be if produced and proved.

76 Upon request from an individual granted protected voter status under the provisions of subsection B
77 of § 24.2-418, the ~~State Board~~ *Department* shall replace the individual's residence address in copies of
78 campaign finance reports available to the public with the individual's alternative mailing address found
79 in the Virginia voter registration system.

80 Nothing in this chapter shall be construed to grant public access to information not required to be
81 entered into the campaign finance database under this chapter that candidates or committees may include
82 in campaign finance report-creation software managed by or for the ~~State Board~~ *Department*.

83 B. The following applies to campaign finance reports filed by candidate campaign committees:

84 1. Every officer or general registrar, with whom reports are required to be filed by this chapter, shall
85 file and preserve such reports and keep them as part of the office's records for at least one year after the
86 final report is filed, or through the next general election for the office to which they pertain, whichever
87 is later; or in the case of a candidate who has not filed a final report and seeks election to the same
88 office in a successive election, through the next general election for the office to which they pertain.

89 2. The ~~State Board~~ *Department* shall file and preserve as part of its records the *candidate campaign*
90 *committee and independent expenditure* reports required to be filed with it by this chapter for at least
91 one year after the final report is filed, or through the next general election for the office to which they
92 pertain, whichever is later; or in the case of a candidate who has not filed a final report and seeks
93 election to the same office in a successive election, through the next general election for the office to
94 which they pertain. Thereafter, the ~~State Board~~ *Department* shall forward the reports it preserves to The
95 Library of Virginia for preservation under the Virginia Public Records Act (§ 42.1-76 et seq.).

96 C. The following applies to campaign finance reports filed by political committees:

97 1. Every officer or general registrar, with whom reports are required to be filed by this chapter, shall
98 file and preserve such reports as part of the office's records for at least four years after the reporting
99 deadline or one year after the final report is filed.

100 2. The ~~State Board~~ *Department* shall file and preserve as part of its records the reports required to be
101 filed with it by this chapter for at least four years after the reporting deadline or one year after the final
102 report is filed. Thereafter, the ~~State Board~~ *Department* shall forward the reports it preserves to The
103 Library of Virginia for preservation under the Virginia Public Records Act (§ 42.1-76 et seq.).

104 **§ 24.2-947.1. Statement of organization.**

105 A. Any individual seeking or campaigning for an office of the Commonwealth or one of its
106 governmental units in a party nomination process or general, primary, or special election shall file a
107 statement of organization within 10 days of meeting any one of the following conditions:

- 108 1. Acceptance of a contribution;
- 109 2. Expenditure of any funds;
- 110 3. The payment of a filing fee for any party nomination method;
- 111 4. The filing of a candidate statement of qualification pursuant to § 24.2-501;
- 112 5. The appointment of a campaign treasurer, designation of a campaign committee, or designation of
113 a campaign depository; or

114 6. In the case of a candidate for a town office in a town with a population of less than 25,000 that
115 has not otherwise adopted the provisions of this chapter by ordinance, acceptance of a contribution or
116 expenditure of funds that brings the total amount of contributions accepted or funds expended to more
117 than \$25,000 within the candidate's election cycle, as set forth in § 24.2-947.

118 B. Candidates for statewide office shall file the statement with the ~~State Board~~ *Department*.
119 Candidates for the ~~General Assembly~~ *All other candidates* shall file the statement with the ~~State Board~~
120 *Department* and a copy of the statement with the general registrar of the locality of the candidate's

residence. Candidates for local or constitutional office shall file the statement with the general registrar and, if the statement indicates that the candidate committee will be filing electronically, a copy with the State Board.

C. The statement of organization shall include the following information:

1. The full name and residence address of the candidate;
2. The full name and mailing address for the campaign committee;
3. The full name, residence address, and daytime phone number of the treasurer;
4. The office being sought and district, if any, for the office;
5. The recognized political party affiliation of the candidate for statewide office or the General Assembly. In the absence of any political party affiliation, independent shall be used;
6. The name of the financial institution for his campaign depository; and
7. Such other information as shall be required by the State Board except that the account number for a designated depository account shall not be required.

D. In the case of any candidate who seeks election for successive terms in the same office, the statement of organization filed by the candidate shall continue in effect for such successive elections, but the candidate shall file notice of any changes in the information provided on the form within 10 days of the change with the State Board Department, general registrar, or both, as appropriate.

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

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

§ 24.2-947.4. Information to be included on campaign finance reports for campaign 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 campaign 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 campaign 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 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, the principal type of business and place of business of the contributor shall be substituted for subdivisions f and g, respectively. For each such contributor other than an individual, it shall be sufficient to list the address of the contributor 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~~ Department shall provide for a "no activity" report *on a form prescribed by the State Board* 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, general registrar, or both,~~ Department by the deadline for filing the report.

§ 24.2-947.5. With whom candidates file reports; electronic filing requirement.

A. Candidates for statewide office and for the General Assembly shall file the reports required by this article *with the Department* by computer or electronic means in accordance with the standards approved by the State Board.

B. Candidates for local or constitutional office in any locality shall file reports required by this article with the State Board by computer or electronic means in accordance with the standards approved by the State Board and shall not be required to file reports with the general registrar of the locality in which the candidate resides.

C. Except as provided in ~~§ 24.2-948.1~~, candidates for any other office who file reports in nonelectronic format shall file with the general registrar of the locality in which the candidate resides.

D. Notwithstanding the provisions of subsection C, a former candidate who is no longer seeking election but has not yet filed a final report as required by ~~§ 24.2-948.4~~ and who files reports in nonelectronic format shall file with the general registrar of the locality in which he sought office.

E. Any report that may be filed with the State Board by mail shall be (i) received by the State Board by the deadline for filing the report or (ii) transmitted to the State Board by telephonic transmission to a facsimile device by the deadline for filing the report with an original copy of the report mailed to the State Board and postmarked by the deadline for filing the report.

§ 24.2-947.9. Special report required of certain large pre-election contributions.

A. Any contribution reported pursuant to this section shall also be reported on the first report required by this article after any election.

B. Except as provided in subsection C, any single contribution of \$5,000 or more for a statewide office, \$1,000 or more for the General Assembly, or \$500 or more for any other office, knowingly received or reported by the candidate or his treasurer on behalf of his candidacy on and after the eleventh day preceding (i) a primary and before the primary date, (ii) a general election and before the general election date, or (iii) any other election in which the individual is a candidate and before the

election day, shall be reported in writing as provided in §§ 24.2-947.4 and 24.2-947.5 or electronically pursuant to § 24.2-946.1, and the report shall be received by the State Board or general registrar, as appropriate, *Department* by 11:59 p.m. on the following day or for a contribution received on a Saturday by 11:59 p.m. on the following Monday. However, any such contribution received within the 24 hours prior to the election day shall be reported and a report thereof received on the day prior to the election.

C. The reports required by subsection B of this section shall also be required of any candidate for nomination by a political party to serve as the party's nominee in a general or special election if (i) the party nominates by convention or any method other than a primary and (ii) there are at least two candidates for nomination pursuant to the rules and procedures of the party. In such case, candidates for nomination shall be required to file the reports required by subsection B for the 11-day period, as specified by subsection B, immediately preceding:

1. The caucus, mass meeting, convention, or other nominating event at which the party's nomination shall be finally determined pursuant to the rules and procedures of the party; and

2. Any caucus, mass meeting, convention, or other nominating event, other than that at which the party's nomination shall be finally determined, at which delegates are chosen who are pledged to support a specified candidate on at least one ballot at a subsequent district or state convention required as part of the nominating process.

D. No report shall be required pursuant to subsection C if the candidate is or has become, by virtue of the withdrawal of any opponent or the operation of the rules and procedures of the party, unopposed for nomination at the time such report otherwise would be required to be made.

E. Any person who is named as the candidate on the statement of organization for more than one campaign committee required to file campaign finance reports under this article shall be required to file special reports pursuant to this section for all such committees during the period applicable to any such campaign committee.

§ 24.2-948.1. Exemption from reporting requirements for certain candidates for local office and for directors of soil and water conservation districts.

A. This section shall apply to candidates for local office and for director of soil and water conservation districts. A candidate for local office or for director of a soil and water conservation district may seek an exemption from the requirements for filing campaign finance disclosure reports set out in this chapter except for the filing requirements of §§ 24.2-945.2, 24.2-947.1, 24.2-947.9, and 24.2-948.4 pertaining to certain independent expenditures, the statement of organization, large contributions, and the filing of a final report. The request for an exemption shall be filed with the *Department and the* general registrar of the county or city where the candidate resides on a form prescribed by the State Board and in accordance with instructions by the State Board for the time for filing and the process for approval by the general registrar.

B. To qualify for an exemption, the candidate shall certify on the form that (i) he has not and will not solicit or accept any contribution from any other person or political committee during the course of his campaign, (ii) he has not and will not contribute to his own campaign more than \$1,000, (iii) he has not and will not expend more than \$1,000 in the course of his campaign, and (iv) that he has complied and will comply with the requirements of this chapter. This certification shall apply for the duration of the campaign until the filing of a final report in compliance with § 24.2-948.4 after the election. A candidate may rescind his certification and exemption at any time during the campaign and shall file in accordance with the appropriate filing schedule thereafter, provided that the candidate rescinds his certification prior to engaging in the activities described in clauses (i), (ii), and (iii) of this subsection. The first report filed shall account for all prior contributions and expenditures pertaining to his campaign.

C. Any candidate who has qualified for an exemption from reporting requirements pursuant to this section shall not be permitted to qualify for any office, enter upon the duties thereof, or receive any salary or emoluments therefrom until a final report has been filed that details all financial activity of the candidate's campaign and states that all reporting for the nomination and election is complete and final. No officer authorized by the laws of the Commonwealth to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the final report cited above have been filed as required in this chapter.

D. A candidate who has a current exemption under the provisions of this section, or who is otherwise exempt from reporting contributions and expenditures under this chapter, may purchase voter lists from the *State Board Department* under the provisions of §§ 24.2-405 and 24.2-406 with a check drawn on the candidate's personal account.

§ 24.2-948.2. Reports as condition to qualification for office.

A. No person shall be permitted to qualify for any office, enter upon the duties thereof, or receive any salary or emoluments therefrom until he has filed the campaign finance reports required in

subdivisions A 3 through A 9 of § 24.2-947.6; subdivisions A 3 through A 6 of § 24.2-947.7; and subdivisions B 1 and B 2 of § 24.2-947.8, as applicable; and a final report if required by subsection C of § 24.2-948.1; and has responded to and complied with any notice that additional information is required to complete a report in compliance with § 24.2-953.3. No person shall be permitted to qualify for any office, enter upon the duties thereof, or receive any salary or emoluments therefrom until he has paid any civil penalty and returned any contribution required to be returned pursuant to § 24.2-953.5. No officer authorized by the laws of this Commonwealth to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the reports cited above have been filed as required in this article.

B. Notwithstanding the requirements of subsection A, a person who is elected to fill a vacancy at a special election held on a general election day may qualify for the office and be issued a certificate of election in advance of filing the postelection report required to be filed under subdivision A 9 of § 24.2-947.6 in the case of a November election, or under subdivision A 6 of § 24.2-947.7 in the case of a May election, upon the filing of a postelection report complete through the election day.

§ 24.2-948.3. Compliance with reporting requirements of campaign finance disclosure act as requirement of candidacy for certain offices.

A. It shall be a requirement of candidacy in any election for statewide office or the General Assembly that the candidate shall have filed the disclosure reports required by this chapter for any election in which he participated as a candidate for any such office and which was held within the five years preceding the date of the election in which he seeks to be a candidate. For the purposes of this section, the candidate shall be presumed to have complied with the candidate disclosure reporting requirements unless (i) the *State Board Department* or general registrar, ~~whichever is appropriate~~, has notified the candidate, at least 60 days prior to the applicable deadline for him to file his written statement of qualification set out in § 24.2-503, that he has failed to file a required report or reports and (ii) the candidate fails to file the specified report or reports by the applicable deadline for filing his written statement of qualification.

B. The authority of the State Board to grant an extension of the deadline established in § 24.2-503 shall include the authority to grant such extension with respect to the requirements of this section.