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SENATE BILL NO. 697

Offered January 11, 1995

A *BILL to amend the Code of Virginia by adding in Chapter 9 of Title 24.2 an article numbered 4.1, consisting of sections numbered 24.2-928.1 through 24.2-928.6, relating to campaign contribution limits; penalties.*

Patron—Gartlan

Referred to the 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 of Title 24.2 an article numbered 4.1, consisting of sections numbered 24.2-928.1 through 24.2-928.6, as follows:

*Article 4.1.**Limits on Contributions.*

§ 24.2-928.1. *Limits on contributions to candidates for Governor, Lieutenant Governor, Attorney General, and the General Assembly.*

A. *The provisions of this article apply only to elections for Governor, Lieutenant Governor, Attorney General, and the General Assembly.*

B. *No person or political committee, except a political party committee or political action committee as defined in subsections H and I of this section, shall make contributions to a candidate for Governor, Lieutenant Governor, or Attorney General which, in the aggregate, exceed \$5,000 in value for any one candidate in any one election. No political action committee shall make contributions to a candidate for Governor, Lieutenant Governor, or Attorney General which, in the aggregate, exceed \$10,000 in value for any one candidate in any one election.*

C. *No person or political committee, except a political party committee or political action committee as defined in subsections H and I of this section, shall make contributions to a candidate for the General Assembly which, in the aggregate, exceed \$1,000 in value in any one calendar year. In addition to the stated calendar year limits, a person or political committee other than a political action committee may make contributions to a candidate for the General Assembly which, in the aggregate, do not exceed in any regular election year for the House of Delegates \$1,000 in value on or before the June primary date and an additional \$1,000 in value after the June primary date. No political action committee shall make contributions to a candidate for the Senate or House of Delegates which, in the aggregate, exceed \$2,000 in value for any one election for such office.*

D. *No candidate shall solicit or accept any contribution in excess of the limits stated in this section.*

E. *The restrictions of this section shall not apply to:*

1. *Contributions by the candidate of his own personal funds to his own campaign;*

2. *Contributions by a political party committee to a candidate; or*

3. *The in-kind contribution of campaign committee headquarters office space to a candidate for all or any part of the period beginning 120 days before and ending thirty days after the general or special election date for the office which the candidate seeks.*

F. *The limits stated in this section for contributions by a political action committee shall apply to contributions by an inaugural committee. The limits stated in this section for a person shall apply to contributions by the campaign committee of a candidate to any other candidate.*

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

H. *For the purposes of this article, the term "political party committee" means the generally recognized organization which, according to the bylaws of the political party, is responsible for the daily operation of the party at the state, congressional district, county, city, or other district level, any generally recognized auxiliary group of a political party committee, and any legislative caucus committee. A "legislative caucus committee" means a committee controlled by the caucus of each political party of either or both houses of the General Assembly.*

I. *For the purposes of this article, the term "political action committee" means a political committee which receives contributions of twenty-five dollars or more from 100 or more individuals in the one-year period before the committee files an application with the State Board to qualify as a political action committee entitled to contribute the larger amounts stated in subsections B and C of this section. The Secretary of the State Board shall obtain information necessary to make the determination that a committee meets the requirements of this subsection and shall provide written certification of the fact to*

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60 the committee. A political action committee certification is valid for two years. A candidate shall not
61 accept a political action committee contribution unless it is accompanied by a copy of the certification.
62 All political action committees that do not meet the requirements of this subsection are subject to the
63 campaign contribution limits applicable to any person under subsections B and C of this section.

64 J. For the purposes of applying the limits stated in this section, each primary, general, or special
65 election, and each method of political party nomination other than a primary, shall constitute a separate
66 election without regard to whether the candidate is opposed or unopposed in the election or nomination
67 process. For any independent candidate, the period ending on the regular primary date for the office he
68 is seeking shall be deemed to be one election and the period following the primary date shall be deemed
69 to be a second election.

70 K. A contributor may designate all or a portion of a contribution made by him during the sixty days
71 following the primary date as a contribution for the primary or other nominating method. Contributions
72 made after the primary date shall be deemed contributions for the general or special election unless
73 otherwise designated as provided in this subsection.

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

77 M. The candidate shall report separately (i) contributions received prior to the primary date or
78 designated for the primary or other nominating method pursuant to subsection K of this section and (ii)
79 contributions received after the primary date and not so designated. In addition, candidates for the
80 General Assembly shall report contributions by calendar year. Candidates may otherwise maintain
81 records of receipts and expenditures for the campaign both before and after the primary date on a
82 continuing basis.

83 N. Any contribution or portion thereof returned within sixty days after receipt shall not be deemed to
84 be a contribution for purposes of applying the limits stated in this section.

85 § 24.2-928.2. Prohibition on indirect contributions.

86 No person, political committee, or other entity shall knowingly contribute to any other person,
87 political committee, or other entity, for the purpose of contributing to a specific candidate, any
88 contributions that, when added together, or added together with contributions made directly to the
89 candidate, have an aggregate value in excess of the limits stated in § 24.2-928.1.

90 § 24.2-928.3. Aggregation of contributions.

91 For purposes of applying the contribution limits stated in § 24.2-928.1:

92 1. All contributions knowingly made by a person or political committee whose contribution or
93 expenditure activity is financed, maintained, or controlled by a corporation, labor organization,
94 association, or any other person, including a parent, subsidiary, branch, division, department, or local
95 unit of the corporation, labor organization, association, or any other person, or by a group of such
96 persons are considered made by the same person or political committee. However, the contributions
97 made by a statewide membership association or statewide labor organization or by a single political
98 committee financed, maintained, or controlled by such statewide association or labor organization and
99 the contributions made by a single member corporation or a single member labor organization or by a
100 political committee sponsored by such member corporation or member labor organization shall not be
101 considered to be made by the same person or political committee;

102 2. Two or more entities are treated as a single entity if the entities (i) share the majority of members
103 on their boards of directors and share two or more officers; (ii) are owned or controlled by the same
104 majority shareholder or shareholders; (iii) are in a parent-subsidiary relationship; or (iv) have by-laws
105 stating that one organization controls the other; and

106 3. A candidate's campaign committee and a committee other than a candidate's campaign committee
107 are treated as a single committee if the committees both have the candidate or a member of the
108 candidate's immediate family as an officer. For the purposes of this subdivision, "immediate family"
109 means the spouse, parent, child, or sibling of the candidate.

110 § 24.2-928.4. Attribution and aggregation of family contributions.

111 For purposes of applying the contribution limits stated in § 24.2-928.1:

112 1. Contributions by a husband and wife are considered separate contributions and not aggregated,
113 and

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

118 § 24.2-928.5. Restrictions on loans.

119 A loan is considered a contribution from the maker and the guarantor of the loan and is subject to
120 the contribution limits stated in § 24.2-928.1.

121 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 § 24.2-928.1 if the loan (i) 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 (ii) is secured or guaranteed by the candidate.

§ 24.2-928.6. Penalties.

In addition to the penalties provided in Article 5 (§ 24.2-929 et seq.) of this chapter, any candidate, who knowingly accepts any contribution in excess of the limits stated in § 24.2-928.1, shall be subject to a civil penalty equal in amount to twice the amount of the excess. This civil penalty shall be enforced as provided in § 24.2-929.

2. That the provisions of this act shall become effective January 1, 1996, and shall not be applicable to elections held before January 1, 1996.