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SENATE BILL NO. 697

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections)

(Patron Prior to Substitute—Senator Gartlan)

Senate Amendments in [] — January 30, 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.

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, other than a corporation, labor organization, or 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 corporation, labor organization, or 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, other than a corporation, labor organization, or 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, such person or political committee, other than a corporation, labor organization, or political party committee or 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 corporation, labor organization, or 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. [The limits for an election stated in this article shall cease to be applicable to any candidate on and after the date that any report is filed pursuant to § 24.2-916, § 24.2-918, or § 24.2-920 by any opponent of the candidate which shows that such opponent candidate has contributed to his own campaign an aggregate amount, as of the last date for which the report is filed, in excess of twenty percent of the cumulative total amount of contributions reported by him in such report and prior reports for that election.]

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 or loans 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 corporation, labor organization, or political action committee shall apply to contributions by an inaugural committee. The limits stated in this section for a person or political committee, other than a corporation, labor organization, or political party committee or political action committee, 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

ENGROSSED

SB697ES1

60 committee. A "legislative caucus committee" means a committee controlled by the caucus of each
61 political party of either or both houses of the General Assembly.

62 I. For the purposes of this article, the term "political action committee" means a political committee
63 which receives contributions of twenty-five dollars or more from 100 or more individuals in the one-year
64 period before the committee files an application with the State Board of Elections to qualify as a
65 political action committee entitled to contribute the larger amounts stated in subsections B and C of this
66 section. The Secretary of the State Board shall obtain information necessary to make the determination
67 that a committee meets the requirements of this subsection and shall provide written certification of the
68 fact to the committee. A political action committee certification is valid for two years. A candidate shall
69 not accept a political action committee contribution unless it is accompanied by a copy of the
70 certification. All political action committees that do not meet the requirements of this subsection are
71 subject to the campaign contribution limits applicable to any person under subsections B and C of this
72 section.

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

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

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

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

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

94 § 24.2-928.2. Prohibition on indirect contributions.

95 For purposes of applying the contribution limits stated in § 24.2-928.1, all contributions made by a
96 person, either directly or indirectly, to benefit a particular candidate, including any contributions which
97 are in any way knowingly earmarked or otherwise directed through any other person, political
98 committee, political party committee, or political action committee, shall be treated as contributions
99 from such person to such candidate.

100 § 24.2-928.3. Aggregation of contributions.

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

102 1. All contributions made by a person, political committee, or political action committee whose
103 contribution or expenditure activity is financed, maintained, or controlled by the same corporation,
104 labor organization, association, or any other person, including a parent, subsidiary, branch, division,
105 department, or local unit of such corporation, labor organization, association, or any other person, or
106 by any group of such persons shall be considered to be made by the same person, political committee,
107 or political action committee. However, the contributions made by a statewide membership association
108 or statewide labor organization or by a single political committee financed, maintained, or controlled by
109 such statewide association or labor organization and the contributions made by a single member
110 corporation or a single member labor organization or by a political committee sponsored by such
111 member corporation or member labor organization shall not be considered to be made by the same
112 person or political committee;

113 2. For entities not described in subdivision 1 of this section, two or more entities will be treated as a
114 single entity sharing the same contribution limit if the entities (i) share the majority of members on their
115 boards of directors and share two or more officers; (ii) are owned or controlled by the same majority
116 shareholder or shareholders; (iii) are in a parent-subsidiary relationship; or (iv) have by-laws stating
117 that one organization has the power to control the other; and

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

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

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

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

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

§ 24.2-928.5. Restrictions on loans.

A loan is considered a contribution from the [~~maker~~ lender] and the guarantor of the loan and is subject to the contribution limits stated in § 24.2-928.1.

A loan to a candidate or the candidate's campaign committee must be by written agreement [, except that a loan by a candidate to his own campaign committee shall not require a separate written agreement but shall be reported as required by Article 4 (§ 24.2-914 et seq.) of this chapter] .

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 the candidate to his own campaign committee or (ii) 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 is secured or guaranteed only 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.

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SB697ES1