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## SENATE BILL NO. 388

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 24.2 a chapter numbered 9.1, consisting of sections numbered 24.2-940 through 24.2-952, to establish the Public Campaign Financing Fund; penalties for violation.

\_\_\_\_\_  
Patron—Marye

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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 Title 24.2 a chapter numbered 9.1, consisting of sections numbered 24.2-940 through 24.2-952 as follows:**

**CHAPTER 9.1.****PUBLIC FINANCING OF ELECTION CAMPAIGNS.**

§ 24.2-940. Title.

*The provisions of this chapter shall be known as the Virginia Public Campaign Financing Law.*

§ 24.2-941. Definitions.

*As used in this chapter:*

"Candidate" means candidate as defined in § 24.2-101, but limited to any person who seeks or campaigns for nomination or election to be Governor, Lieutenant Governor, Attorney General, or a member of the General Assembly.

"Contribution" means contribution as defined in § 24.2-901.

"Fund" means the Virginia Public Campaign Financing Fund created in § 24.2-942.

"Grant" means a matching contribution, or any portion thereof, received from the Fund.

"Matchable contribution" means a contribution or contributions made by any person, other than a candidate or a member of his immediate family, to a candidate for a particular election to be Governor, Lieutenant Governor, Attorney General, or a member of the General Assembly who has declared his intention to accept public funds, or to his designated campaign committee, which, when added to any previous contributions by that person to the candidate or his committee totals \$1,000 or less in elections for Governor, Lieutenant Governor or Attorney General and totals \$500 or less in elections for the General Assembly. A matchable contribution must be made by an instrument in writing containing the name of the contributor.

"Political action committee" means political action committee as defined in § 24.2-901.

§ 24.2-942. Virginia Public Campaign Finance Fund created.

There is hereby created the Virginia Public Campaign Finance Fund, to pay campaign expenditures, which shall be funded by a voluntary income tax check-off system.

§ 24.2-943. Check-offs authorized; state match; gifts, etc.

A. Effective with the taxable years beginning January 1, 1996, each individual whose income tax liability for any taxable year is two dollars or more may designate that two dollars be paid to the Fund. In the case of a joint return of husband and wife having an income tax liability of four dollars or more each spouse may designate that two dollars shall be paid to the Fund. The tax check-off shall be clearly and unambiguously printed on the first page of the state income tax form. No individual's tax liability shall be increased or decreased as a result of the use or non-use of the option to designate payment to the Fund.

B. The General Assembly shall annually appropriate for the Fund an amount equal to the total amount designated by taxpayers, on the preceding year's income tax returns, to be paid into the Fund. Funds appropriated by the Fund and unexpended at the end of the fiscal year shall not revert to the General Fund.

C. Gifts, grants, donations and bequests may be made to the Fund for the purposes of this chapter.

§ 24.2-944. State Board of Elections to administer chapter and Fund.

The State Board of Elections shall administer the Fund and the provisions of this chapter and may promulgate rules and regulations to carry out the provisions of this chapter.

§ 24.2-945. Requirements for candidates to participate in the Fund.

A. To be eligible to receive a grant from the Fund, a candidate shall certify in writing to the Board that such candidate and his designated committee agree:

1. To obtain and provide to the Board any evidence of the campaign expenses of such candidate which the Board may request;

2. To keep and furnish records, books and other information which the Board may request;

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- 60 3. To submit to an audit and examination by the Board, as it may prescribe in its rules;  
 61 4. To maintain only one committee to further his or her election;  
 62 5. Not to incur campaign expenses in excess of the expenditure limitations imposed by § 24.2-947;  
 63 6. To receive individual contributions not to exceed \$1,000 in the aggregate, with respect to any  
 64 person, per election for Governor, Lieutenant Governor, or Attorney General for which a grant from the  
 65 Fund is sought;  
 66 7. To receive individual contributions not to exceed \$500 in the aggregate, with respect to any  
 67 person, per election for the General Assembly for which a grant from the Fund is sought;  
 68 8. Not to receive contributions from a political action committee, corporation or union or other  
 69 entity;  
 70 9. To receive contributions from a political party committee or committees, not to exceed \$1,000 in  
 71 the aggregate per election for Governor, Lieutenant Governor, or Attorney General for which a grant  
 72 from the Fund is sought;  
 73 10. To receive contributions from a political party committee or committees not to exceed \$500 in  
 74 the aggregate per election for the General Assembly for which a grant from the Fund is sought;  
 75 11. To limit a candidate's personal contribution to \$1,000 per election for Governor, Lieutenant  
 76 Governor, or Attorney General for qualifying and matching purposes; provided that the amount of a  
 77 personal contribution by the candidate in excess of \$1,000 per election shall be subtracted from a grant  
 78 from the Fund; and  
 79 12. To limit a candidate's personal contribution to \$500 per election for the General Assembly for  
 80 qualifying and matching purposes; provided that the amount of a personal contribution by the candidate  
 81 in excess of \$500 per election shall be subtracted from a grant from the Fund.
- 82 B. The agreement and certification to the Board by the candidate remains effective until the  
 83 dissolution of the designated campaign committee of the candidate or the opening of filings for the next  
 84 succeeding election to the office held or sought at the time of agreement, whichever occurs first.
- 85 § 24.2-946. Campaign contributions; qualifying contributions.
- 86 A. To qualify for a grant from the Fund, a candidate shall comply with the requirements of  
 87 § 24.2-945 and this section.
- 88 B. A candidate for nomination or election in a primary, special or general election shall submit to  
 89 the State Board of Elections a list of matchable contributions received after January 1 of the election  
 90 year for each particular election equal to or more than the following amounts:
- |  | Governor  | Lieutenant<br>Governor or<br>Attorney<br>General | Senate<br>of<br>Virginia | House of<br>Delegates |
|--|-----------|--|--------------------------|-----------------------|
| 99 Primary Election  | \$100,000 | \$50,000   | \$5,000                  | \$3,000               |
| 102 Special or General<br>103 Election (candidate<br>104 nominated in<br>105 contested primary<br>106 election)  | \$200,000 | \$100,000  | \$10,000                 | \$6,000               |
| 109 Special or General<br>110 Election (candidate<br>111 nominated other<br>112 than by primary<br>113 election) | \$300,000 | \$150,000  | \$15,000                 | \$9,000               |
- 115 In the case of a special election, a contribution received ninety or fewer days prior to the date of  
 116 election shall be matchable.
- 117 C. The Board shall promptly check reported contributions to determine that, on their face, they meet  
 118 the requirements for matchable contributions and shall keep a record of such contributions. The Board  
 119 shall promptly notify a candidate when he qualifies under this chapter to receive a grant and shall pay

to him an amount equal to the matchable contributions qualifying him to receive a grant and shall thereafter, on a biweekly basis, pay to the candidate one dollar from the Fund for each one dollar of matchable contributions obtained and reported to the Board. No unopposed candidate of election shall be entitled to a grant from the Fund and write-in candidates shall not be regarded as opposition or as creating a contested primary or election for purposes of this section.

D. The Board may adjust the qualifying amounts set forth in subsection B of this section by December 31 of the year preceding an election.

§ 24.2-947. Expenditure limitations.

A. In a year in which an election is held for the office sought by the candidate, expenditures made for the election year by the candidate's designated campaign committee shall not exceed the following:

|                     | Governor    | Lieutenant  | Senate    | House of  |
|---------------------|-------------|-------------|-----------|-----------|
|                     |             | Governor or | of        | Delegates |
|                     |             | Attorney    | Virginia  |           |
|                     |             | General     |           |           |
| Primary Election    | \$1,500,000 | \$750,000   | \$50,000  |           |
| \$30,000            |             |             |           |           |
| Special or General  |             |             |           |           |
| Election (candidate |             |             |           |           |
| nominated in        |             |             |           |           |
| contested primary   |             |             |           |           |
| election)           | \$3,000,000 | \$1,500,000 | \$100,000 | \$60,000  |
| Special or General  |             |             |           |           |
| Election (candidate |             |             |           |           |
| nominated other     |             |             |           |           |
| than by primary     |             |             |           |           |
| election)           | \$4,500,000 | \$2,250,000 | \$150,000 | \$90,000  |

B. In any year following an election year for the office held or sought, the aggregate amount of expenditures by a campaign committee shall not exceed 20 percent of the expenditure limit set forth in subsection A.

C. On or before December 31 of the year preceding an election, the Board may determine and publish any changes in the expenditure limits, consistent with the purposes of this chapter, for each office for the election year as prescribed in subsection A, using the following criteria:

1. Estimated population figures for the next calendar year, beginning January 1.
2. The cost of conducting elections for the respective office.
3. The percentage change in the consumer price index for the years preceding an election and following the last general election for the office.

§ 24.2-948. Candidate funding.

A. Application forms for grants from the Fund shall be provided by the Board and shall provide for a sworn statement by the candidate that such candidate and his designated campaign committee have agreed to and met the eligibility requirements under §§ 24.2-945 and 24.2-946.

Each application shall be accompanied by a matchable contribution statement and shall be filed with the Board.

B. Each application shall be accompanied by a statement by the candidate, supported by documentation, that certifies that:

1. Such candidate and campaign committee are in fact not in violation of any of the requirements of § 24.2-945;
2. Such candidate has qualified to be on the election ballot in a primary, special or general election for the office sought;
3. Such candidate or campaign committee has received the qualifying sum of matchable contributions for the office sought, as set forth in § 24.2-946; and

179 4. Such candidate and at least one other candidate for the same elective seat have qualified to have  
180 their names on the election ballot in the same election.

181 C. Upon approval by the Board of the application and matchable contribution statement, the Board  
182 shall distribute matching grants up to a total of fifty percent of the maximum expenditure limitation for  
183 the office the candidate is seeking.

184 Grants shall be distributed to each eligible candidate within ten days from the date of the  
185 candidate's initial application with the Board.

186 D. Each candidate in receipt of the qualifying sum of contributions established for the office sought,  
187 and otherwise eligible under this chapter to participate in the Fund, may apply to the Board for a grant  
188 after becoming a candidate in a primary, special or general election, but no later than ten days prior to  
189 a primary, special or general election.

190 E. The Board shall make additional certifications for grant payments within ten days after receiving  
191 an application and supplemental contribution statement from an eligible candidate.

192 § 24.2-949. Grants from the Fund.

193 A. Every candidate for the office of Governor, Lieutenant Governor, Attorney General or member of  
194 the General Assembly who is eligible to receive a grant from the Fund is entitled to a grant from the  
195 Fund in an amount equal to each qualifying matchable contribution received by the candidate or  
196 campaign committee during the matching payment period involved.

197 B. The total amount of grants from the Fund for a primary, special or general election shall not  
198 exceed fifty percent of the expenditure limitation pursuant to § 24.2-947.

199 C. If the Board determines that there is not or may not be sufficient money in the Fund to provide a  
200 full public contribution to all qualified candidates, it shall allocate the available money so that all  
201 qualified candidates will receive a pro-rata share of the full public contribution to which they would  
202 otherwise be entitled.

203 § 24.2-950. Restrictions.

204 A. No candidate or his designated campaign committee may expend, authorize the expenditure of or  
205 incur any obligation to expend a grant or any matchable contribution for any purpose other than to  
206 advance the candidacy by lawful means of the specific candidate who qualifies for the grant.

207 B. No person may expend, authorize the expenditure of or incur any obligation to expend a grant  
208 after the date of any election where the moneys contained in such contributions are returnable to the  
209 Commonwealth under subsection E.

210 C. Grants received by the candidate from the Fund shall be spent only through his designated  
211 campaign committee and shall be reported by the committee according to law and rules established by  
212 the Board.

213 D. All grants received from the Fund shall be deposited in a financial institution designated to do  
214 business in the Commonwealth and shall be kept in a separate account from contributions received by  
215 the candidate's campaign committee. No expenditure of a grant shall be made except by checks drawn  
216 on such account. The Board may require such reports relating to the expenditure of such funds as it  
217 considers appropriate.

218 E. Upon the filing of a final report for any primary, special or general election, each candidate who  
219 has spent an amount below the expenditure limit set for his respective office, but who has received  
220 grants from the Fund equal to more than one-half of the amount actually expended shall return all  
221 unexpended grants to the Fund, where they shall be deposited.

222 § 24.2-951. Enforcement.

223 A. The campaign treasurer of the candidate shall produce evidence to the Board no later than twenty  
224 days after a primary, special or general election that all grants paid to the campaign committee have  
225 been utilized as required by this chapter.

226 Should the Board determine that any part of a grant has been used for noncampaign or improper  
227 expenses or transfers, it shall report such findings to the Attorney General and shall order the candidate  
228 to return all or part of the total funds paid to that candidate. When such funds are returned, they shall  
229 be deposited in the Fund.

230 B. A candidate subject to the expenditure limitations of § 24.2-947 whose campaign committee makes  
231 expenditures in excess of the limits imposed shall be subject to a civil fine up to four times the amount  
232 by which the expenditures exceed the limit.

233 C. A candidate whose campaign committee accepts contributions in excess of the limits imposed in  
234 § 24.2-945 shall be subject to a civil fine up to four times the amount by which the contribution exceeds  
235 the limit.

236 D. A candidate whose campaign committee violates the agreements imposed by § 24.2-945 shall  
237 return all public moneys to be deposited in the Fund, and shall be subject to a civil penalty of \$10,000.

238 § 24.2-952. Severability clause.

239 If any section, subsection, sentence, part or application of this chapter be held unconstitutional by a  
240 court of last resort, such holding shall not affect any other section, subsection, sentence, part or

**241** *application which can be given effect without the part so held invalid.*