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HOUSE BILL NO. 2805

Offered January 20, 1997

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 24.2-953, enacting the General Assembly Campaign Finance Reform Act; contribution and expenditure limits; public funding; penalties.

Patron—Hamilton

Referred to 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 24.2-953, as follows:

CHAPTER 9.1.

GENERAL ASSEMBLY CAMPAIGN FINANCE REFORM ACT.

§ 24.2-940. Title.

This chapter shall be known as the General Assembly Campaign Finance Reform Act.

§ 24.2-941. Definitions.

As used in this chapter:

"Campaign committee," "contribution," "expenditure," "person," and "political committee" shall be defined as provided in § 24.2-901.

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

"Fund" means the General Assembly Campaign Finance Reform Fund created in § 24.2-942.

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

"Matchable contribution" means a contribution made by any person, political committee, or other entity to a candidate who has declared his intention to accept public funds, or to his campaign committee, which contribution when added to any previous contributions by that person, political committee, or other entity to the candidate or his committee totals \$2,500 or less. A matchable contribution shall be made by an instrument in writing containing the name of the contributor.

§ 24.2-942. General Assembly Campaign Finance Reform Fund created.

There is hereby created the General Assembly Campaign Finance Reform Fund to make grants for campaign expenditures as provided in this chapter.

§ 24.2-943. Funding; gifts, etc.

A. The General Assembly shall appropriate biennially to the Fund an amount estimated to be sufficient to fund fifty percent of the expenditures authorized pursuant to § 24.2-947. Funds appropriated to the Fund and unexpended at the end of the fiscal year shall not revert to the general fund.

B. 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 establish rules 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 campaign committee agree to:

1. Obtain and provide to the Board any evidence of the campaign expenditures of such candidate which the Board may request;

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

3. Submit to an audit and examination by the Board, as it may prescribe in its rules;

4. Maintain only one campaign committee to further his election;

5. Not incur campaign expenses in excess of the expenditure limitations imposed by § 24.2-947;

6. Receive contributions not to exceed \$2,500 in the aggregate, from any person, political committee, or other entity, per election for which a grant from the Fund is sought; and

7. Limit a candidate's personal contribution to \$2,500 per election for qualifying and matching purposes; the amount of a personal contribution by the candidate in excess of \$2,500 per election shall be subtracted from grants otherwise available to the candidate from the Fund.

B. The agreement and certification to the Board by the candidate remain effective until the dissolution of the designated campaign committee of the candidate.

§ 24.2-946. Campaign contributions; qualifying contributions.

A. To qualify for a grant from the Fund, a candidate shall comply with the requirements of

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60 § 24.2-945 and this section.

61 B. A candidate for nomination or election in a primary, special or general election shall submit to
62 the State Board of Elections a list of matchable contributions received after January 1 of the election
63 year for each particular election that is equal to or more than the following amounts:

64			
65		Senate of	House of
66			
67		Virginia	Delegates
68			
69	Primary Election	\$5,000	\$3,000
70			
71			
72	Special or General		
73	Election (candidate		
74	nominated in		
75	contested primary		
76	election)	\$10,000	\$6,000
77			
78			
79	Special or General		
80	Election (candidate		
81	nominated other		
82	than by primary		
83	election)	\$15,000	\$9,000
84			
85			

86 In the case of a special election, a contribution received ninety or fewer days prior to the date of
87 election shall be matchable.

88 C. The Board shall promptly check reported contributions to determine that, on their face, they meet
89 the requirements for matchable contributions and shall keep a record of such contributions. The Board
90 shall promptly notify a candidate when he qualifies under this chapter to receive a grant and shall pay
91 to him an amount equal to the matchable contributions qualifying him to receive a grant and shall
92 thereafter pay to the candidate one dollar from the Fund for each one dollar of additional matchable
93 contributions obtained and reported to the Board. No unopposed candidate for election shall be entitled
94 to a grant from the Fund and write-in candidates shall not be regarded as opposition or as creating a
95 contested primary or election for purposes of this section. No write-in candidate shall be entitled to a
96 grant from the Fund.

97 D. The Board may adjust the qualifying amounts set forth in subsection B by December 31 of the
98 year preceding an election to maintain parity with the expenditure limits set out in § 24.2-947 as those
99 limits are adjusted from time to time.

100 § 24.2-947. Expenditure limitations.

101 A. In a year in which an election is held for the office sought by the candidate, for those who qualify
102 for grants from the Fund, expenditures made for the election year by the candidate's campaign
103 committee shall not exceed the following:

104			
105		Senate of	House of
106			
107		Virginia	Delegates
108			
109	Primary Election	\$50,000	\$30,000
110			
111			
112	Special or General		
113	Election (candidate		
114	nominated in		
115	contested primary		
116	election)	\$100,000	\$60,000
117			

Special or General
Election (candidate
nominated other
than by primary
election)

\$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 twenty 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. Cost of conducting elections for the respective office.
3. 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 his campaign committee are 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
4. Such candidate and at least one other candidate for the same elective seat have qualified to have their names on the election ballot in the same election.

C. Upon approval by the Board of the application and matchable contribution statement, the Board shall distribute matching grants up to a total of fifty percent of the maximum expenditure limitation for the office the candidate is seeking. Grants shall begin to be distributed to each eligible candidate within ten days from the date of the candidate's initial application with the Board.

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

E. The Board shall make certifications for additional grant payments within ten days after receiving an application and supplemental contribution statement from an eligible candidate. Applications may be filed on a bi-weekly basis but not more frequently.

§ 24.2-949. Grants from the Fund.

A. Every candidate who is eligible to receive a grant from the Fund is entitled to a grant from the Fund in an amount equal to each qualifying matchable contribution received by the candidate or campaign committee during the matching-payment period involved.

B. The total amount of grants from the Fund for a primary, special or general election shall not exceed fifty percent of the applicable expenditure limitation.

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

§ 24.2-950. Restrictions.

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

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

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

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

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

191 § 24.2-951. Enforcement.

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

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

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

202 C. A candidate whose campaign committee violates the agreements imposed by § 24.2-945 shall
203 return all public moneys to be redeposited in the Fund, and shall be subject to a civil penalty of
204 \$10,000.

205 § 24.2-952. Contribution limits.

206 A. Except as provided in subsection B, no person, political committee, or other entity shall make
207 contributions to a candidate for the General Assembly which, in the aggregate, exceed \$1,000 in value
208 for any one candidate in any one election.

209 B. No person, political committee, or other entity shall make contributions to a candidate for the
210 General Assembly who has agreed to and met the eligibility requirements of §§ 24.2-945 and 24.2-946
211 which, in the aggregate, exceed the contribution limit of \$2,500 stated in § 24.2-945.

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

213 D. The restrictions of this section shall not apply to contributions by the candidate of his personal
214 funds to his own campaign.

215 E. For the purpose of applying the contribution limits stated in this chapter, each primary and
216 ensuing general election shall constitute one election and each primary and ensuing special election
217 shall constitute one election.

218 F. Any contribution or portion thereof returned within sixty days after receipt shall not be deemed to
219 be a contribution for purposes of applying the limits stated in this chapter.

220 G. For purposes of applying the contribution limits stated in this chapter, all contributions made by
221 a person, political committee, or other entity, either directly or indirectly, to benefit a particular
222 candidate, including any contributions which are in any way knowingly earmarked or otherwise directed
223 through any other person, political committee, or entity shall be treated as contributions from the
224 original donor.

225 H. A candidate whose campaign committee knowingly accepts contributions in excess of the limits
226 imposed in this chapter shall be subject to a civil fine up to four times the amount by which the
227 contribution exceeds the limit. A contributor who knowingly makes a contribution in excess of the limits
228 imposed in this chapter shall be subject to a civil fine up to two times the amount by which the
229 contribution exceeds the limit.

230 § 24.2-953. Severability clause.

231 If any section, subsection, sentence, part or application of this chapter is held unconstitutional by a
232 court of last resort, such holding shall not affect any other section, subsection, sentence, part or
233 application which can be given effect without the part so held invalid.

234 **2. That the provisions of this act shall become effective on July 1, 1998.**