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HOUSE BILL NO. 641

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 24.2-945.2, 24.2-946.1, 24.2-947.1, 24.2-947.4, 24.2-947.5 through 24.2-947.9, 24.2-948.3, and 24.2-948.4 of the Code of Virginia, relating to Campaign Finance Disclosure Act of 2006; candidates and campaign committees; electronic filing required.

Patron—Campbell

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, 24.2-947.1, 24.2-947.4, 24.2-947.5 through 24.2-947.9, 24.2-948.3, and 24.2-948.4 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 local electoral board 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 clauses 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.

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 local electoral board, as appropriate, within 24 hours of the time when the funds were expended or (ii) transmitted to the State Board or the local electoral board, 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 local electoral board, 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 approve standards for the preparation, production, and transmittal 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 may provide campaign finance report-creation software to filers without charge or at a reasonable cost.

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

C. By July 1, 2007, the State Board of Elections shall develop and implement a centralized system to accept reports from any candidate for local or constitutional office. Such reports shall be filed in accordance with, and using software that meets, standards approved by the State Board. The State Board shall promptly notify the electoral board of the locality in which a candidate resides and make the information contained in the report available to the electoral board.

D. The State Board shall enter or cause to be entered into a campaign finance database, available to the public through the Internet, the information from required campaign finance reports filed by computer, ~~or electronically electronic, or other means~~ by candidates for the General Assembly and

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59 statewide office.

60 E. Other campaign finance reports required by this chapter to be filed by a committee with the State
61 Board or a local electoral board, or both, ~~may~~ *shall* be filed electronically on terms agreed to by the
62 committee and the Board.

63 **§ 24.2-947.1. Statement of organization.**

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

- 68 1. Acceptance of a contribution;
- 69 2. Expenditure of any funds;
- 70 3. The payment of a filing fee for any party nomination method;
- 71 4. The filing of a candidate statement of qualification pursuant to § 24.2-501; or
- 72 5. The appointment of a campaign treasurer, designation of a campaign committee, or designation of
73 a campaign depository.

74 B. Candidates for statewide office, *the General Assembly, and local and constitutional office* shall
75 file *electronically* the statement with the State Board. ~~Candidates for the General Assembly shall file the~~
76 ~~statement with the State Board and a copy of the statement with the local electoral board of the~~
77 ~~candidate's residence. Candidates for local or constitutional office shall file the statement with the local~~
78 ~~electoral board and, if the statement indicates that the candidate committee will be filing electronically, a~~
79 ~~copy with the State Board.~~

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

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

90 D. In the case of any candidate who seeks election for successive terms in the same office, the
91 statement of organization filed by the candidate shall continue in effect for such successive elections, but
92 the candidate shall file *electronically* notice of any changes in the information provided on the form
93 within 10 days of the change with the State Board, ~~local electoral board, or both, as appropriate.~~

94 **§ 24.2-947.4. Information to be included on campaign finance reports for campaign committees.**

95 A. The reports required by this article shall be filed on a form prescribed by the State Board and
96 shall include all financial activity of the campaign committee. All completed forms shall be submitted ~~in~~
97 ~~typed, printed, or legibly hand printed format or~~ electronically as provided in § 24.2-946.1. Persons
98 submitting the forms shall do so subject to felony penalties for making false statements pursuant to
99 § 24.2-1016.

100 B. The report of receipts shall include:

- 101 1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less,
102 including cash and in-kind contributions, as of the date of the report, and the total amount of
103 contributions from all such contributors;
- 104 2. For each contributor who has contributed an aggregate of more than \$100, including cash and
105 in-kind contributions, as of the ending date of the report, the campaign committee shall itemize each
106 contributor on the report and list the following information:
 - 107 a. ~~the~~ *The* name of the contributor, listed alphabetically,;
 - 108 b. ~~the~~ *The* mailing address of the contributor,;
 - 109 c. ~~the~~ *The* amount of the contribution,;
 - 110 d. ~~the~~ *The* aggregate amount of contributions from the contributor to date,;
 - 111 e. ~~the~~ *The* date of the contribution,;
 - 112 f. ~~the~~ *The* occupation of the contributor,;
 - 113 g. ~~the~~ *The* name of his employer or principal business,; and
 - 114 h. ~~the~~ *The* city and state where employed or where his business is located.

115 For each such contributor, other than an individual, the principal type of business and place of
116 business of the contributor shall be substituted for subdivisions f and g, respectively. For each such
117 contributor other than an individual, it shall be sufficient to list the address of the contributor one time
118 on the report of receipts.

119 3. For each designated contribution received by the campaign committee from a political committee,
120 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 shall provide for a "no activity" report 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, local electoral board, or both, by the deadline for filing the report.

§ 24.2-947.5. Reports filed electronically with State Board.

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

B. Candidates for the General Assembly may 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. Nonelectronic reports for the General Assembly shall be filed with the State Board and with the electoral board of the locality where the candidate resides.

C. B. Except as provided in § 24.2-948.1, candidates for any other office who file reports in nonelectronic format shall file with the electoral board of the locality in which the candidate resides. Beginning July 1, 2007, candidates for local or constitutional office may *shall* file reports required by this article with the State Board by computer or other electronic means in accordance with standards approved by the State Board. Candidates who file by electronic means with the State Board do not have to file reports with the electoral board of the locality in which the candidate resides.

D. 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.

§ 24.2-947.6. Filing schedule for candidates for office; November elections.

A. Any candidate for any office to be filed *filled* at a November general election shall file *electronically* the prescribed campaign finance reports as follows:

1. Not later than July 15 in a nonelection year for the period January 1 through June 30;
2. Not later than January 15 following a nonelection year for the period July 1 through December 31;
3. In an election year, not later than April 15 for the period January 1 through March 31 and pursuant to subdivisions 4 through 9 ~~of this section~~;
4. Not later than the eighth day before the primary date complete through the thirteenth day before the primary date;
5. Not later than July 15 complete through June 30;
6. Not later than September 15 complete through August 31;
7. Not later than October 15 complete through September 30;
8. Not later than the eighth day before the November election date complete through the thirteenth day before the election date;
9. Not later than the thirtieth day after the November election date complete through the twenty-third day after the election date; and

10. Not later than January 15 following an election year complete through December 31, and then in accordance with subdivisions A 1 and A 2 or subdivisions A 3 through A 9, as appropriate, ~~of this subsection~~ until a final report is filed.

B. Any candidate, who was subject to the election year filing schedule set out in subdivisions A 3 through A 9 and who has not filed a final report, shall file reports in any subsequent election year for the same office in accordance with the election year filing schedule set out in subdivisions A 3 through A 9.

C. Any candidate shall also file any report of certain large contributions required by § 24.2-947.9, if applicable.

§ 24.2-947.7. Filing schedule for candidates for office; May elections.

A. Any candidate for election to a local office to be filled at a May general election shall file *electronically* the prescribed campaign finance reports as follows:

1. Not later than July 15 in a nonelection year for the period January 1 through June 30;

2. Not later than January 15 following a nonelection year for the period July 1 through December 31;

3. For municipal primary candidates only, not later than the eighth day before the primary date complete through the eleventh day before the primary;

4. Not later than April 15 of the election year complete through March 31;

5. Not later than the eighth day before the election date complete through the eleventh day before the election date;

6. Not later than June 15 of the election year complete through June 10;

7. Not later than July 15 of the election year complete through June 30; and

8. Not later than the following January 15 complete through December 31, and then in accordance with subdivisions A 1 and A 2 or subdivisions A 3 through A 7, as appropriate, ~~of this subsection~~ until a final report is filed.

B. Any candidate, who was subject to the election year filing schedule set out in subdivisions A 3 through A 8 and who has not filed a final report, shall file reports in any subsequent election year for the same office in accordance with the election year filing schedule set out in subdivisions A 3 through A 8.

C. Any candidate shall also file any report of certain large contributions required by § 24.2-947.9, if applicable.

§ 24.2-947.8. Filing requirements for special elections.

A. Candidates for nomination or election to an office to be filled by a special election held on a regular election date shall file *electronically* the prescribed reports of contributions and expenditures which apply to regularly scheduled elections for that office.

B. In the case of a special election held on a date other than a regularly scheduled general election, the candidate shall file as follows:

1. A report not later than the eighth day before the special election date complete through the eleventh day before that date;

2. A postelection report no later than the thirtieth day after the election and prior to taking office; and

3. A postelection report not later than January 15 and July 15 each year until a final report is filed.

C. Any candidate, who has been subject to the election year filing schedule set out in subdivisions B 1 through B 3 and who has not filed a final report, shall file reports in any subsequent election year for the same office in accordance with the election year filing schedule set out in § 24.2-947.6 or 24.2-947.7 as appropriate for that office.

D. Any candidate shall also file any report of certain large contributions required by § 24.2-947.9, if applicable.

§ 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 (i) on and after the twelfth day preceding a primary and before the primary date, (ii) on and after the twelfth day preceding a general election and before the general election date, or (iii) on and after the eleventh day preceding 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 local electoral board, as appropriate, by 5:00 p.m. on the following day or for a contribution received on a Saturday by 5:00 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 12-day or 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.

§ 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 *electronically* 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 or local electoral board, 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.

§ 24.2-948.4. Final report requirement; disbursement of surplus funds.

A. A final report shall be filed *electronically* by every campaign committee which sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all surplus funds as provided in subsection D. The final report shall include a termination statement, signed by the candidate, that all reporting for the campaign committee is complete and final. Once a campaign committee's final report has been filed, no further report relating to that election shall be required.

B. A final report shall be required when (i) a candidate no longer seeks election to the same office in a successive election, (ii) a candidate seeks election to a different office, or (iii) the candidate is deceased.

C. If the candidate is deceased, the final report shall be filed and signed by the treasurer. If the candidate was serving as his own treasurer, his executor shall file and sign the final report. Any excess contributed funds shall be disposed of pursuant to the provisions of subsection D.

D. Amounts received by a candidate or his campaign committee as contributions that are in excess of the amount necessary to defray his campaign expenditures may be disposed of only by one or any combination of the following: (i) transferring the excess for use in a succeeding election or to retire the deficit in a preceding election; (ii) returning the excess to a contributor in an amount not to exceed the contributor's original contribution; (iii) donating the excess to any organization described in § 170(c) of the Internal Revenue Code; (iv) contributing the excess to one or more candidates or to any political committee that has filed a statement of organization pursuant to this chapter; (v) contributing the excess to any political party committee; and (vi) defraying any ordinary, nonreimbursed expense related to his elective office. It shall be unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to his personal use or to the use of a member of the candidate's "immediate family" as that term is defined in § 30-101.