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HOUSE BILL NO. 1459

Offered January 11, 2017

Prefiled December 5, 2016

A BILL to amend and reenact § 24.2-948.4 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 9.3 of Title 24.2 a section numbered 24.2-948.5, relating to campaign finance; prohibited personal use; penalty.

Patrons—Cole, Anderson, Fariss, Jones and Landes; Senator: Stuart

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-948.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 9.3 of Title 24.2 a section numbered 24.2-948.5 as follows:

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

A. A final report shall be filed 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.~~

§ 24.2-948.5. Prohibited personal use; penalty.

A. ~~It is unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to the personal use of a candidate or a member of the candidate's immediate family as that term is defined in § 30-101, if such use is for a strictly personal purpose with no reasonable or foreseeable benefit to the candidate's campaign or public office. Reimbursements paid to the candidate or a member of his immediate family in accordance with § 24.2-947.2 and payments for goods and services provided to the campaign by a member of the candidate's immediate family shall not be considered an unlawful conversion of contributions to the personal use of a candidate or a member of the candidate's immediate family. The dual use of office space, equipment, or vehicles is not a violation under this section.~~

B. ~~A person who contributes to a candidate or a candidate's campaign committee may file a written complaint with the State Board alleging a violation of this section. The State Board shall not be authorized to act upon a complaint made by any other person.~~

C. ~~Upon receipt of a credible, written complaint, the State Board shall notify the subject of the complaint and forward to him a copy of the complaint. The subject of the complaint shall have 30 days to provide to the State Board documentation or other evidence that the use of the campaign funds had a reasonable or foreseeable benefit to the campaign or the candidate's public office. If the State Board determines, after reviewing any response made by the subject of the complaint, that the use of campaign funds had no reasonable or foreseeable benefit to the campaign or the candidate's public office, it shall call a public hearing. At least 10 days prior to such hearing, the State Board shall send notice by~~

59 certified mail of the time and date of the hearing to the complaining party and to the subject of the
60 complaint. If the complaining party declines to participate in the hearing, the complaint shall be
61 dismissed. The subject of the complaint shall have the right to postpone the hearing if it is scheduled
62 within the 30 days immediately preceding an election in which the candidate is running for office.

63 D. At the public hearing, the State Board shall determine whether to find a willful and knowing
64 violation of this section. Such a finding shall require a unanimous vote by the State Board. A person
65 found by the State Board to have willfully and knowingly violated this section shall repay to the
66 campaign committee the amount unlawfully converted to the personal use of the candidate or a member
67 of the candidate's immediate family and shall return to the complaining party the full amount of the
68 complaining party's contribution to the campaign. The State Board may also assess an additional civil
69 penalty, in an amount not to exceed \$100. The determination to assess such a civil penalty shall be
70 made at the public hearing and shall require a unanimous vote by the State Board. Any civil penalties
71 collected under this section shall be payable to the State Treasurer for deposit to the general fund. The
72 procedure to enforce the civil penalties provided in this section shall be as stated in § 24.2-946.3.

73 E. A person found by the State Board to have violated the provisions of this section shall have a
74 right to seek review of such finding in accordance with Article 5 (§ 2.2-4025 et seq.) of the
75 Administrative Process Act in the Circuit Court of the City of Richmond.