

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: SB1547

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Vogel

3. Committee: Privileges and Elections

4. Title: Campaign finance; prohibited personal use; penalty.

5. Summary: Prohibits the conversion of any contributed moneys, securities, or like intangible personal property by any person to the personal use of a candidate or member of the candidate's immediate family or an intimate partner of the candidate or a member of the candidate's immediate family, if (i) such use yields a grossly disproportionate and unreasonable benefit to the recipient or candidate relative to the benefit realized by the candidate's campaign or public office, (ii) the fair market value of converted property grossly exceeds the benefit realized by the candidate's campaign or public office, (iii) a reasonable and prudent person would not ordinarily authorize such expenditure as beneficial to the campaign, and (iv) such use is made with a knowing, willing, reckless, or negligent disregard for the financial interests of the campaign. Complaints of alleged violations may be made by any person to the State Board of Elections. The subject of the complaint has 30 days to provide to the State Board documentation or other evidence that the use of the campaign funds was permissible. The State Board shall call a hearing if it determines, after reviewing any response made by the subject of the complaint, that the use of campaign funds was impermissible. A person found by the State Board to have willfully and knowingly violated this section shall repay to the campaign committee the amount unlawfully converted. The State Board may also assess an additional civil penalty, in an amount not to exceed the amount unlawfully converted. Complaints may be declared factually meritless by the State Board when, viewing the facts in the light most favorable to the complaining party, it finds there is no credible allegation of a violation and such complaints shall be exempt from public disclosure for a period of time immediately preceding an election.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate – see Item 8.

8. Fiscal Implications: The State Board of Elections (SBE) does not conduct investigations involving campaign finance violations as required in the proposed legislation. The impact of investigating campaign finance violations is indeterminate and will depend upon the number of complaints. Since it would be possible for a complaint to require additional staff to gather documentation and notify parties involved of the complaint, there is no existing data upon which estimated costs could be based. SBE and the Department of Elections currently have

very limited capacity to absorb additional workload with the current staffing level. Therefore, investigating campaign finance violations may require additional staffing.

The proposed legislation authorizes SBE to assess and collect a civil penalty in an amount not to exceed the value of the amount unlawfully converted. The determination to assess such a civil penalty shall be made at the public hearing and shall require a unanimous vote by SBE. The civil penalty shall be payable to the State Treasurer and deposited into the general fund. The proposed legislation may have a revenue impact; however, the number of the civil penalties assessed and collected as a result of the proposed legislation cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Elections, State Board of Elections, Department of the Treasury, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is similar to House Bill 1459 (Cole).