

Department of Planning and Budget

2018 Fiscal Impact Statement

1. Bill Number: HB5

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Simon

3. Committee: Rules

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 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 reviewing allegations of campaign finance violations is indeterminate and would depend upon the number of complaints. There is no existing data upon which the level of resources needed to carry out the functions outlined in the bill can be estimated. However, SBE and the Department of Elections currently have very limited capacity to absorb additional workload

with its current staffing level. Therefore, additional staffing may be required in order to carry out the functions required in the bill such as gathering documentation and notifying parties of complaints. For illustration purposes, if the workload were to warrant a full time position, the Department of Elections estimates the cost of a full time Hearing and Legal Services Manager I would be \$154,143.

Some ancillary costs to implement this legislation could be absorbed by the agency, such as updating instructions and guidance documents to include translation, if needed, changes to the campaign finance reporting system, changes to web materials, printing and distribution of forms, additional support for staff to research Code sections and update forms impacted by the legislation, and training to assure candidates and voters are aware of any new requirements.

The proposed legislation authorizes the State Board of Elections to assess and collect a civil penalty from anyone who has converted 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. 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 and the State Board of Elections

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to SB 592, as introduced.

Date: 1/18/2018