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SENATE BILL NO. 1146

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Privileges and Elections
on January 29, 2019)

(Patrons Prior to Substitute—Senators Petersen and Ebbin [SB 1497])

A BILL to amend the Code of Virginia by adding in Chapter 9.3 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-948.5 through 24.2-948.10, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6, relating to campaign finance; campaign contribution limits; civil penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 9.3 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-948.5 through 24.2-948.10, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6 as follows:

Article 3.1.

Contribution Limits.

§ 24.2-948.5. Definitions.

For purposes of this article, unless the context requires a different meaning:

"Candidate" means the candidate, the candidate's treasurer, and the candidate's campaign committee. Any contribution to the candidate's treasurer or campaign committee shall be deemed a contribution to the candidate.

"Election cycle" has the meaning set forth in § 24.2-947.

§ 24.2-948.6. Limits on contributions to candidates for statewide office and the General Assembly.

A. No person, other than a political party committee, and no political action committee shall make any single contribution, or any combination of contributions, that exceeds \$10,000 to any one candidate for Governor, Lieutenant Governor, Attorney General, or the General Assembly in any one election cycle, of which no more than \$5,000 may be contributed for the primary election or other nominating event for the office the candidate is seeking.

B. No candidate shall solicit or accept contributions in excess of the limits set forth in this section.

C. Contributions made on or prior to the date of the primary election or nominating event shall be subject to the contribution limits for the primary election or other nominating event, unless designated by the contributor as a contribution for the general election. Additionally, a contribution made during the 60 days immediately following the date of the primary election or nominating event may be designated by the contributor as a contribution for the primary or other nominating event.

D. The limits set forth in this section shall not apply to contributions by (i) the candidate to his own campaign; (ii) the candidate's spouse, child, parent, or sibling to his campaign; and (iii) a political party committee to the candidate.

E. The limits set forth in this section shall apply without regard to whether the candidate is opposed or unopposed in the election or nominating process.

F. A candidate who is defeated in the primary or nominating process and has a campaign deficit may continue to accept contributions in order to retire the deficit, but such contributions shall be subject to the limits set forth in this section for general elections.

G. The candidate shall report separately (i) contributions received on or prior to the date of the primary election or other nominating event and contributions designated for the primary election or other nominating event pursuant to subsection C and (ii) contributions received after the primary date or not so designated. Candidates may otherwise maintain records of receipts and expenditures for the campaign both before and after the primary date on a continuing basis.

H. Any contribution or portion thereof that is returned to the contributor within 60 days after receipt shall not be deemed to be a contribution for the purposes of applying the limits set forth in this section.

§ 24.2-948.7. Prohibition on indirect contributions.

For purposes of applying the contribution limits set forth in § 24.2-948.6, all direct or indirect contributions made by a person to benefit a candidate, including any contributions that are knowingly earmarked or otherwise directed through any other person, political committee, political party committee, or political action committee, shall be deemed to be contributions from such person to such candidate.

§ 24.2-948.8. Aggregation of contributions.

For purposes of applying the contribution limits set forth in § 24.2-948.6:

1. All contributions made by a person or political action committee whose contribution or expenditure activity is financed, maintained, or controlled by the same corporation, labor organization, association, or any other person, including a parent, subsidiary, branch, division, department, or local

60 unit of such corporation, labor organization, association, or any other person, or by any group of such
61 persons, shall be deemed to be made by the same person or political action committee; and

62 2. For entities not described in subdivision 1, two or more entities shall be deemed to be a single
63 entity sharing the same contribution limit if the entities (i) share the majority of members on their
64 boards of directors and share two or more officers, (ii) are owned or controlled by the same majority
65 shareholder or shareholders, (iii) are in a parent-subsidary relationship, or (iv) have bylaws stating
66 that one organization has the power to control the other.

67 **§ 24.2-948.9. Attribution and aggregation of family contributions.**

68 For purposes of applying the contribution limits set forth in § 24.2-948.6:

69 1. Contributions by spouses shall be deemed to be separate contributions and shall be aggregated
70 per individual; and

71 2. Contributions by unemancipated children under 18 years of age shall be considered contributions
72 by their parents, and 50 percent of the contributions shall be attributed to each parent or, in the case of
73 a single custodial parent, the total amount shall be attributed to the parent.

74 **§ 24.2-948.10. Restrictions on loans.**

75 Any loan to a candidate for Governor, Lieutenant Governor, Attorney General, or the General
76 Assembly shall be deemed to be a contribution from the maker and the guarantor of the loan and is
77 subject to the contribution limits set forth in § 24.2-948.6. A loan to a candidate or the candidate's
78 campaign committee must be by written agreement. The proceeds of a loan made to a candidate shall
79 not be subject to the contribution limits stated in § 24.2-948.6 if the loan is made by the candidate to
80 his own campaign committee or is made by a commercial lending institution in the regular course of
81 business and on the same terms ordinarily available to members of the public and is secured or
82 guaranteed only by the candidate.

83 **§ 24.2-953.6. Violation of contribution limits; civil penalty.**

84 Any candidate for Governor, Lieutenant Governor, Attorney General, or the General Assembly whose
85 campaign committee knowingly accepts, or any contributor who knowingly makes to such candidate,
86 contributions in excess of the limits imposed in Article 3.1 (§ 24.2-948.5 et seq.) shall be subject to a
87 civil penalty of up to two times the amount by which the contribution exceeds the limit. The State Board
88 shall assess and collect such civil penalties, which shall be payable to the State Treasurer for deposit to
89 the general fund.