

## Department of Planning and Budget

### 2019 Fiscal Impact Statement

**1. Bill Number:** HB1617-E

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

**2. Patron:** Cole

**3. Committee:** Privileges and Elections

**4. Title:** Campaign finance; prohibited personal use of campaign funds, civil penalty.

- 5. Summary:** Prohibits the personal use of campaign funds, defined as the use of contributions, or conversion of items acquired using contributions, to a candidate or campaign committee for a strictly personal purpose with no intended, reasonable, or foreseeable benefit to the candidate's campaign or public office. Complaints of alleged violations may be filed with the State Board of Elections (the State Board) by any person who contributed to the candidate or campaign committee. The subject of a complaint has 30 days to either (i) reimburse the campaign committee the complained-of amount or (ii) provide documentation or other evidence that the use of funds had an intended, reasonable, or foreseeable benefit to the campaign or the candidate's public office. The bill allows the State Board to review complaints in closed meetings. A public hearing shall be called if the State Board determines there were no intended, reasonable, or foreseeable benefits upon review and the amount has not been reimbursed. A person found to have willfully and knowingly violated this prohibition by a unanimous vote of the State Board must repay the amount unlawfully used to the campaign committee and may be assessed a civil penalty of up to \$250. Any complaining party found to have filed a frivolous complaint shall be assessed a civil penalty of up to \$250.

The Virginia Conflict of Interest and Ethics Advisory Council (the Council) is required to develop and publish guidance on the provisions of the Campaign Finance Disclosure Act that prohibit the personal use of campaign funds. The Council shall issue formal advisory opinions regarding the provisions governing the personal use of campaign funds upon request. A person who has relied on such an opinion in good faith after providing full disclosure of the facts shall not be subject to the penalties outlined in the bill. The bill has a delayed effective date of July 1, 2020.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Indeterminate; see Item 8.

- 8. Fiscal Implications:** The bill prohibits the use of campaign contributions for personal purposes that have no intended, reasonable, or foreseeable benefit to the candidate's campaign or public office and designates related responsibilities to the State Board of Elections and the Virginia Conflict of Interest and Ethics Advisory Council as follows.

**State Board of Elections:**

The bill allows persons who contributed to a campaign to file written complaints to the State Board of Elections (SBE) alleging violations of its provisions, subject to review and a public hearing by the State Board of Elections. SBE does not currently 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 (ELECT) 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 \$153,547.

Some ancillary costs to implement this legislation could be absorbed by ELECT, 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 also authorizes SBE to assess a civil penalty of up to \$250 to anyone found to have used contributions, or items acquired using such contributions, for a strictly personal purpose that has no intended, reasonable, or foreseeable benefit to the candidate's campaign of public office and to any complaining party found to have filed a frivolous complaint. 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.

**Virginia Conflict of Interest and Ethics Advisory Council:**

The bill requires the Ethics Council, a component of the Division of Legislative Services, to develop and publish guidance on the provisions of the Campaign Finance Disclosure Act that prohibit personal uses of campaign funds and to provide Formal Opinions regarding the provisions of law governing the personal use of campaign funds to lobbyists and members of the General Assembly and other public officials.

Because the bill does not authorize Ethics Council staff to provide any informal guidance or assistance on the subject of personal use of campaign funds and Formal Opinions can only be issued upon a vote of the full Council and may not be released beforehand, the Ethics Council believes that the additional number of Formal Opinions that may be required under this bill can be handled with existing resources.

**9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Elections, State Board of Elections, Virginia Conflict of Interest and Ethics Advisory Council, and the Division of Legislative Services.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.