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HOUSE BILL NO. 848

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Privileges and Elections
on January 24, 2020)

(Patrons Prior to Substitute—Delegates Simon, M.L. Cole [HB 1574], Kory [HB 1299], and Tran [HB 1218])

A BILL to amend and reenact §§ 24.2-948.4, 24.2-949.9, 24.2-950.9, 24.2-951.9, and 24.2-952.7 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 9.3 of Title 24.2 a section numbered 24.2-945.3, relating to unlawful conversion of political contributions to personal use; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-948.4, 24.2-949.9, 24.2-950.9, 24.2-951.9, and 24.2-952.7 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 9.3 of Title 24.2 a section numbered 24.2-945.3 as follows:

§ 24.2-945.3. Unlawful conversion of contributions to personal use; penalty.

A. It is unlawful for any person to convert any moneys, securities, or like intangible personal property that has been contributed to a candidate, a campaign committee, or a political committee to his personal use or the personal use of any other person.

B. For purposes of this section, a contribution shall be considered to be converted to personal use if the contribution, in whole or in part, is used to fulfill any commitment, obligation, or expense that would exist irrespective of a person's seeking, holding, or maintaining public office or carrying out the ordinary activities of a political committee, including:

1. Any residential or household items, including mortgage, rent, or utility payments;

2. Clothing or other personal items, other than items of de minimis value that are used in the campaign or for committee purposes;

3. Automobile or other transportation expenses that are incurred for purposes not related to seeking, holding, or maintaining public office or the primary purpose of a political committee; and

4. Travel expenses, including lodging and meals, that are incurred for purposes not related to seeking, holding, or maintaining public office or the primary purpose of a political committee.

For purposes of this section, "personal use" does not include the ordinary and necessary expenses incurred in connection with the duties as a candidate or officeholder or the activities of the political committee, including the use of campaign funds to pay the candidate's child care expenses, or expenses for the care of a dependent of the candidate, that are incurred as a direct result of campaign activity.

C. Any person who violates any provision of this section is guilty of a Class 1 misdemeanor.

D. The State Board shall furnish, upon the request of any person or committee covered by this chapter, formal advisory opinions regarding the permitted and prohibited uses of contributions. Formal advisory opinions are public record and shall be published on the website of the Department of Elections. No person shall be prosecuted or penalized for a violation of this section if the alleged violation resulted from his good faith reliance on a formal advisory opinion of the State Board, provided that the opinion was made after his full disclosure of the facts.

§ 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.

§ 24.2-949.9. Final report requirement; disbursement of surplus funds.

A. Any political action committee that, after having filed a statement of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$200 shall so notify the State Board. A final report shall be filed by the committee that sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of the committee's surplus funds. This final report shall include a termination statement, signed by the treasurer or other principal officer listed on the statement of organization, that all reporting for the committee is complete and final.

B. Amounts received by a political action committee as contributions may be disposed of only by one or any combination of the following: (i) transferring the excess to an affiliated organization of the committee; (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 the political action committee. 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 "immediate family," as that term is defined in § 30-101, of the committee's treasurer or chief executive.

§ 24.2-950.9. Final report requirement; transfer of surplus funds.

A. Any political party committee that, after having filed a statement of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$200 shall so notify the State Board. A final report shall be filed by the committee that sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of the committee's surplus funds. This final report shall include a termination statement, signed by the treasurer or other principal officer listed on the statement of organization, that all reporting for the committee is complete and final.

B. Amounts received by a political party committee as contributions may be disposed of only by one or any combination of the following: (i) transferring the excess to an affiliated organization of the committee; (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 the political party committee. 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 "immediate family," as that term is defined in § 30-101, of the committee's treasurer or chief executive.

§ 24.2-951.9. Final report requirement; disbursement of surplus funds.

A. Any referendum committee that disbands after having filed a statement of organization shall so notify the State Board. A final report shall be filed by the committee that sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of the committee's surplus funds. This final report shall include a termination statement, signed by the treasurer or other principal officer listed on the statement of organization, that all reporting for the committee is complete and final.

B. Amounts received by a referendum committee as contributions may be disposed of only by one or any combination of the following: (i) transferring the excess to an affiliated organization of the committee; (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 committee; and (vi) defraying any ordinary, nonreimbursed expense related to the referendum committee. 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 "immediate family," as that term is defined in § 30-101, of the committee's treasurer or chief executive.

§ 24.2-952.7. Final report requirement; disbursement of surplus funds.

A. Any inaugural committee that, after having filed a statement of organization, disbands shall so notify the State Board. A final report shall be filed by the committee that sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the

122 disposition of the committee's surplus funds. This final report shall include a termination statement,
123 signed by the treasurer or other principal officer listed on the statement of organization, that all reporting
124 for the committee is complete and final.

125 B. It shall be unlawful for any person to disburse any funds or receipts of an inaugural committee
126 which are in excess of the amount necessary to defray expenditures for inaugural activities other than by
127 one or any combination of the following: (i) returning the excess to a contributor in an amount not to
128 exceed the contributor's original contribution or (ii) making one or more charitable contributions as
129 defined in § 170(c) of the Internal Revenue Code. ~~It shall be unlawful for any person to convert any~~
130 ~~contributed moneys, securities, or like intangible personal property to his personal use or to the use of a~~
131 ~~member of the "immediate family," as that term is defined in § 30-101, of the committee's treasurer or~~
132 ~~chief executive.~~