

Department of Planning and Budget

2021 Fiscal Impact Statement

1. Bill Number: HB1952- S1

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

2. Patron: Surovell

3. Committee: N/A

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

5. Summary: Adds a definition of "personal use of campaign funds" and prohibits 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 made to the State Board of Elections (the State Board) by any person who contributed to the candidate or candidate's campaign committee. The subject of the complaint has 30 days to either (i) reimburse the campaign committee the complained-of amount or (ii) provide to the State Board documentation or other evidence that the use of the campaign funds had an intended, reasonable, or foreseeable benefit to the campaign or the candidate's public office. If the subject of the complaint provides such documentation or other evidence, the State Board shall review the response made by the subject of the complaint and determine whether the use of campaign funds had any intended, reasonable, or foreseeable benefit to the campaign or the candidate's public office. The bill amends the Freedom of Information Act to allow closed meetings for the State Board to review complaints related to the personal use of campaign funds. If the State Board determines that there were no intended, reasonable, or foreseeable benefits and the complained-of amount has not been reimbursed, it shall call a public hearing. If the complaining party declines to participate in the hearing, the complaint shall be dismissed. A person found by a unanimous vote of the State Board to have willfully and knowingly violated the prohibition on personal use of campaign funds must repay to the campaign committee the amount unlawfully converted to the personal use of the candidate or a member of the candidate's immediate family and must return to the complaining party the full amount of the complaining party's contribution to the campaign. The State Board may also assess an additional civil penalty, in an amount not to exceed \$1,000. The person found to be in violation may seek review under the Administrative Process Act.

6. Budget Amendment Necessary: See Item 8

7. Fiscal Impact Estimates: Indeterminate, see Item 8

8. Fiscal Implications:

State Board of Elections:

This bill allows persons who contributed to a campaign file written complaints to the State Board of Elections (SBE). The legislation further directs SBE upon receipt of a credible written complaint or its own motion to review specific use of campaign contributions by a candidate or public officeholder for alleged violations of personal use of campaign funds. 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) have a 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 \$152,566.

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 authorizes the State Board of Elections to assess and collect a civil penalty not to exceed \$1,000 to anyone found to have used contributions for a strictly personal purpose that has no intended, reasonable, or foreseeable benefit to the candidate's campaign or public office. 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.

Office of the Attorney General (OAG)

This bill is not expected to have a state fiscal impact for OAG.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Elections, State Board of Elections and Office of the Attorney General.

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** None