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HOUSE BILL NO. 500

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 24.2-945.1, 24.2-955, and 24.2-955.1 of the Code of Virginia, relating to campaign finance and advertisements; independent expenditures; electioneering communications.

Patrons—Bulova and Simon

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-945.1, 24.2-955, and 24.2-955.1 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-945.1. Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Authorization" means express approval or express consent by the candidate, the candidate's campaign committee, or an agent of the candidate or his campaign committee after coordination.

"Campaign committee" means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

"Candidate" means "candidate" as defined in § 24.2-101.

"Contribution" means money and services of any amount, in-kind contributions, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or to an inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of a filing fee for any party nomination method.

"Coordinated" or "coordination" refers to an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"Designated contribution" means a contribution that is designated specifically and in writing for a particular candidate or candidates and that is made using a political committee solely as a conduit.

"Expenditure" means money and services of any amount, and any other thing of value, paid, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or by any inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

"Federal political action committee" means any political action committee registered with the Federal Election Commission that makes contributions to candidates or political committees registered in Virginia.

"Inaugural committee" means any organization, person, or group of persons that anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

"Independent expenditure" means (i) an expenditure made by any person, candidate campaign committee, or political committee that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee or (ii) *an electioneering communication as defined in § 24.2-955.1 that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee.* "Independent expenditure" includes an expenditure made by a candidate campaign committee ~~(i)~~ (a) that is not related to the candidate's own campaign and ~~(ii)~~ (b) that is not made to, controlled by, coordinated with, or made with the authorization of a different candidate, his campaign committee, or an agent of that candidate or his campaign committee.

"In-kind contribution" means the donation of goods, services, property, or other thing of value, other than money, including an expenditure controlled by, coordinated with, or made upon the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee, that is provided for free or less than the usual and normal charge. The basis for arriving at the dollar value of

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59 an in-kind contribution is as follows: new items are valued at retail value; used items are valued at fair
60 market value; and services rendered are valued at the actual cost of service per hour. Services shall not
61 be deemed to include personal services voluntarily rendered for which no compensation is asked or
62 given.

63 "Out-of-state political committee" means an entity covered by § 527 of the United States Internal
64 Revenue Code that is not registered as a political committee or candidate campaign committee in
65 Virginia and that does not have as its primary purpose expressly advocating the election or defeat of a
66 clearly identified candidate. The term shall not include a federal political action committee.

67 "Person" means any individual or corporation, partnership, business, labor organization, membership
68 organization, association, cooperative, or other like entity.

69 "Political action committee" means any organization, person, or group of persons, established or
70 maintained to receive and expend contributions for the primary purpose of expressly advocating the
71 election or defeat of a clearly identified candidate. The term shall not include a campaign committee,
72 federal political action committee, out-of-state political committee, political party committee, referendum
73 committee, or inaugural committee.

74 "Political committee" means and includes any political action committee, political party committee,
75 referendum committee, or inaugural committee. The term shall not include: (i) a federal political action
76 committee or out-of-state political committee; (ii) a campaign committee; (iii) a political party committee
77 exempted pursuant to § 24.2-950.1; or (iv) a person who receives no contributions from any source and
78 whose only expenditures are made solely from his own funds and are either contributions made by him
79 which are reportable by the recipient pursuant to this chapter or independent expenditures which are
80 reportable by him to the extent required by § 24.2-945.2, or a combination of such reportable
81 contributions and independent expenditures.

82 "Political party committee" means any state political party committee, congressional district political
83 party committee, county or city political party committee, other election district political party
84 committee, or organized political party group of elected officials. This definition is subject to the
85 provisions of § 24.2-950.1.

86 "Primary purpose" means that 50% or more of the committee's expenditures made in the form of
87 contributions shall be made to candidate campaign committees or political committees registered in
88 Virginia. Administrative expenditures and the transfer of funds between affiliated or connected
89 organizations shall not be considered in determining the committee's primary purpose. The primary
90 purpose of the committee shall not be determined on the basis of only one report or election cycle, but
91 over the entirety of the committee's registration.

92 "Referendum committee" means any organization, person, group of persons, or committee, that makes
93 expenditures in a calendar year in excess of (i) \$10,000 to advocate the passage or defeat of a statewide
94 referendum, (ii) \$5,000 to advocate the passage or defeat of a referendum being held in two or more
95 counties and cities, or (iii) \$1,000 to advocate the passage or defeat of a referendum held in a single
96 county or city.

97 "Residence" means "residence" or "resident" as defined in § 24.2-101.

98 "Statewide office" means the office of Governor, Lieutenant Governor, or Attorney General.

99 B. For the purpose of applying the filing and reporting requirements of this chapter, the terms
100 "person" and "political committee," shall not include an organization holding tax-exempt status under
101 § 501(c) (3), 501(c) (4), or 501(c) (6) of the United States Internal Revenue Code which, in providing
102 information to voters, does not advocate or endorse the election or defeat of a particular candidate,
103 group of candidates, or the candidates of a particular political party.

104 **§ 24.2-955. Scope of disclosure requirements.**

105 The disclosure requirements of this chapter apply to any sponsor of an advertisement in the print
106 media, on radio or television, or placed or promoted for a fee on an online platform, the cost or value
107 of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3
108 (§ 24.2-945 et seq.), except that the disclosure requirements of this chapter do not apply to (i) an
109 individual who makes independent expenditures aggregating less than \$1,000 in an election cycle for or
110 against a candidate for statewide office or less than \$200 in an election cycle for or against a candidate
111 for any other office or (ii) an individual who incurs expenses only with respect to a referendum.

112 **§ 24.2-955.1. Definitions.**

113 As used in this chapter, unless the context requires a different meaning:

114 "Advertisement" means any message (i) appearing in the print media, on television, on radio, or on
115 an online platform, that constitutes a contribution or expenditure under Chapter 9.3 (§ 24.2-945 et seq.)
116 or (ii) that is an electioneering communication. "Advertisement" shall not include novelty items
117 authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be
118 attached to wearing apparel.

119 "Authorized by _____" means the same as "authorization" as defined in § 24.2-945.1.

120 "Campaign telephone calls" means a series of telephone calls or text messages, electronic or

otherwise, made (i) to 25 or more telephone numbers in the Commonwealth, (ii) during the 180 days before a general or special election or during the 90 days before a primary or other political party nominating event, (iii) conveying or soliciting information relating to any candidate or political party participating in the election, primary or other nominating event, and (iv) under an agreement to compensate the telephone callers.

"Candidate" means "candidate" as defined in § 24.2-101.

"Candidate campaign committee" or "campaign committee" means "campaign committee" as defined in § 24.2-945.1.

"Coordinated" or "coordination" means an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"Conspicuous" means so written, displayed, or communicated that a reasonable person ought to have noticed it.

"Electioneering communication" means any message appearing in the print media, on television, on radio, or on an online platform (i) that refers to a clearly identified candidate; (ii) that is published, broadcast, or otherwise publicly distributed within 30 days of a primary or 60 days of a general election and is targeted to the relevant electorate; and (iii) for which money and services of any amount, or any other thing of value, was paid, loaned, provided, or in any other way disbursed. "Electioneering communication" does not include (a) a candidate debate or forum or promotion of such debate or forum by the sponsor of the event or (b) a communication paid for by a federal candidate in connection with a federal election, provided that such communication does not expressly advocate for a candidate for office in Virginia.

"Full-screen" means the only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least 50% of the vertical height of the television screen.

"Independent expenditure" means "independent expenditure" as defined in § 24.2-945.1.

"Name of candidate" means (i) the full name of the candidate as it appears on the statement of qualification filed pursuant to § 24.2-501 or as it will appear on the ballot or (ii) the first name, middle name, or "nickname" of the candidate as it appears on his statement of qualification and a last name of the candidate as it appears on his statement of qualification.

"Occurrence" means one broadcast of a radio or television political campaign advertisement.

"Online platform" means any public-facing website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements.

"Online political advertisement" means an advertisement that is placed or promoted for a fee on an online platform.

"Online political advertiser" means any person who purchases an advertisement from an online platform or promotes an advertisement on an online platform for a fee.

"Political action committee" means "political action committee" as defined in § 24.2-945.1.

"Political committee" means "political committee" as defined in § 24.2-945.1.

"Political party" has the same meaning as "party" or "political party" as defined in § 24.2-101.

"Political party committee" means any state political party committee, congressional district political party committee, county or city political party committee, or organized political party group of elected officials. The term shall not include any other organization or auxiliary associated with or using the name of a political party.

"Print media" means billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, websites, electronic mail, non-video or non-audio messages placed or promoted for a fee on an online platform, yard signs, and outdoor advertising facilities. If a single print media advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face.

"Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

"Scan line" means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

"Sponsor" means a candidate, candidate campaign committee, political committee, or person that purchases an advertisement.

"Telephone call" means any single telephone call or text message, electronic or otherwise, that when combined with other telephone calls or text messages constitutes campaign telephone calls.

"Television" means any television broadcast station, cable television system, wireless-cable multipoint

182 distribution system, satellite company, or telephone company transmitting video programming that is
183 subject to the provisions of 47 U.S.C. §§ 315 and 317.

184 "Unobscured" means that the only printed material that may appear on the television screen is a
185 visual disclosure statement required by law, and that nothing is blocking the view of the disclosing
186 person's face.

187 "Yard sign" means a sign paid for or distributed by a candidate, campaign committee, or political
188 committee to be placed on public or private property. Yard signs paid for or distributed prior to July 1,
189 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.