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HOUSE BILL NO. 85

Offered January 12, 2022

Prefiled January 5, 2022

A *BILL to amend and reenact §§ 24.2-950.2, 24.2-950.4, and 24.2-950.9 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9.3 of Title 24.2 an article numbered 2.1, consisting of sections numbered 24.2-946.6 through 24.2-946.10, by adding a section numbered 24.2-950.2:1, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6, relating to elections; campaign finance; contribution limits; penalty.*

Patrons—Anderson; Senator: Morrissey

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-950.2, 24.2-950.4, and 24.2-950.9 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9.3 of Title 24.2 an article numbered 2.1, consisting of sections numbered 24.2-946.6 through 24.2-946.10, by adding a section numbered 24.2-950.2:1, and by adding in Article 8 of Chapter 9.3 of Title 24.2 a section numbered 24.2-953.6 as follows:

*Article 2.1.**Contribution Limits.***§ 24.2-946.6. Limits on individual contributions to candidates and certain political committees.**

A. An individual shall not make any single contribution or any combination of contributions that exceeds the following individual contribution limits:

1. \$2,900 per election cycle, as described in § 24.2-947, to any campaign committee;
2. \$5,000 per calendar year to any political action committee;
3. \$36,000 per calendar year to the general fund of any political party committee; or
4. \$25,000 per calendar year to the legal fund of any political party committee.

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

C. The limits set forth in this section shall not apply to contributions by the candidate's spouse, child, parent, or sibling to his campaign to the candidate.

D. 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.

§ 24.2-946.7. Campaign committee contribution limits.

A. A campaign committee shall not make any single contribution or any combination of contributions that exceeds \$100,000 to any other campaign committee, political action committee, or political committee.

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

C. 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.

§ 24.2-946.8. Aggregation of contributions; prohibition on indirect contributions.

For purposes of applying the contribution limits set forth in §§ 24.2-946.6 and 24.2-946.7:

1. All direct or indirect contributions made by a person, campaign committee, or political committee to benefit a candidate, including any contributions that are knowingly earmarked or otherwise directed through any other person, campaign committee, or political committee, shall be deemed to be contributions from such person to such candidate;

2. All contributions made by a person, campaign committee, or political committee whose contribution or expenditure activity is financed, maintained, or controlled by any other person, campaign committee, or political committee, including a parent, subsidiary, branch, division, department, corporation, labor organization, or association, or local unit of such corporation, labor organization, or association, or by any group of such persons, shall be deemed to be made by the same person, campaign committee, or political committee; and

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

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59 **§ 24.2-946.9. Attribution and aggregation of family contributions.**

60 *For purposes of applying the contribution limits set forth in § 24.2-946.6:*

61 *1. Contributions by spouses shall be deemed to be separate contributions and shall be aggregated*
62 *per individual; and*

63 *2. Contributions by unemancipated children younger than 18 years of age shall be considered*
64 *contributions by their parents; 50 percent of such contributions shall be attributed to each parent or, in*
65 *the case of a single custodial parent, the total amount shall be attributed to the parent.*

66 **§ 24.2-946.10. Restrictions on loans.**

67 *Any loan to the campaign committee shall be deemed to be a contribution from the maker and the*
68 *guarantor of the loan and is subject to the contribution limits set forth in §§ 24.2-946.6 and 24.2-946.7.*
69 *A loan to a candidate or the candidate's campaign committee shall be by written agreement. The*
70 *proceeds of a loan made to a candidate's campaign committee shall not be subject to the contribution*
71 *limits stated in §§ 24.2-946.6 and 24.2-946.7 if the loan is made by the candidate to his own campaign*
72 *committee or is made by a commercial lending institution in the regular course of business and on the*
73 *same terms ordinarily available to members of the public and is secured or guaranteed only by the*
74 *candidate or his campaign committee.*

75 **§ 24.2-950.2. Statement of organization for a political party committee.**

76 *Except as provided in § 24.2-950.1, each political party committee that anticipates receiving*
77 *contributions or making expenditures in excess of \$200 in a calendar year shall file with the State Board*
78 *a statement of organization within 10 days after its organization, or if later, within 10 days after the date*
79 *on which it has information that causes the committee to anticipate it will receive contributions or make*
80 *expenditures in excess of \$200 or on which it otherwise becomes subject to the provisions of this*
81 *article. Any change in information previously submitted in a statement of organization shall be reported*
82 *to the State Board within 10 days following the change.*

83 *The statement of organization shall include:*

84 *1. The name of the political party committee and its address in the Commonwealth;*

85 *2. The name and business address of the treasurer and his residence address in the Commonwealth*
86 *who shall be deemed the agent of the political party committee for the purpose of service of process on*
87 *the political party committee;*

88 *3. The name, residence in the Commonwealth, business address, and position of the custodian of the*
89 *books and accounts, who works under the direction of the treasurer, and the address where the books are*
90 *maintained;*

91 *4. The name, address, office sought, and party affiliation of each individual whom the committee is*
92 *supporting or opposing for nomination or for election to any public office whatever, or if supporting the*
93 *entire ticket of any party, the name of the party;*

94 *5. The designated depository to be used for the receipt and holding of general funds and*
95 *contributions received by the political party committee, in an account in a financial institution within the*
96 *Commonwealth*

97 *6. Whether the political party committee intends to establish a legal fund separate from general*
98 *funds kept in the depository indicated under subdivision 5 and, if so, the designated depository to be*
99 *used for the receipt and holding of funds and contributions received by the political party committee*
100 *and specifically earmarked for deposit into that fund, in an account in a financial institution within the*
101 *Commonwealth; and*

102 *7. Such other information as shall be required by the State Board except that the account number for*
103 *the any designated depository account shall not be required.*

104 **§ 24.2-950.2:1. Legal fund.**

105 *A political party committee may establish a separate fund for the sole purpose of paying legal*
106 *expenses incurred by the committee and any other person or committee that it supports. Contributions to*
107 *such fund shall be kept separate from the political party committee's general fund. No contribution shall*
108 *be deposited into a legal fund that is not specifically designated for such fund in writing. A political*
109 *party committee may transfer money from its general fund to its legal fund, but no money shall be*
110 *transferred from a political party committee's legal fund to a political party committee's general fund.*

111 **§ 24.2-950.4. Information to be included on campaign finance reports for political party**
112 **committees.**

113 *A. The reports required by this article shall be filed on a form prescribed by the State Board and*
114 *shall include all financial activity of the political party committee. All completed forms shall be*
115 *submitted in typed, printed, or legibly hand printed format or electronically as provided in § 24.2-946.1.*
116 *Persons submitting the forms shall do so subject to felony penalties for making false statements pursuant*
117 *to § 24.2-1016.*

118 *B. The report of receipts shall include:*

119 *1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less,*
120 *including cash and in-kind contributions, as of the date of the report, and the total amount of*

contributions from all such contributors;

2. For each contributor who has contributed an aggregate of more than \$100, including cash and in-kind contributions, as of the ending date of the report, the political party committee shall itemize each contributor on the report and list the following information:

- a. ~~the~~ The name of the contributor, listed alphabetically,;
- b. ~~the~~ The mailing address of the contributor,;
- c. ~~the~~ The amount of the contribution,;
- d. ~~the~~ The aggregate amount of contributions from the contributor to date,;
- e. ~~the~~ The date of the last contribution,;
- f. ~~the~~ The occupation of the contributor,;
- g. ~~the~~ The name of his employer or principal business, and;
- h. ~~the~~ The locality where employed or where his business is located; and
- i. *If the political party committee has opted to maintain a legal fund, the type of fund into which the contribution was deposited.*

For each such contributor, other than an individual, the principal type of business and place of business of the contributor shall be substituted for subdivisions f and g, respectively. For each such contributor other than an individual, it shall be sufficient to list the address of the contributor one time on the report of receipts.

C. Upon transfer of a designated contribution to a designated candidate's campaign committee, the committee shall provide information to the campaign committee to identify the contributor as provided by § 24.2-947.4.

D. The report of disbursements shall include all expenditures and give:

1. The name and address of the person paid;
2. A brief description of the purpose of the expenditure;
3. The name of the person contracting for or arranging the expenditure;
4. The amount of the expenditure; and
5. The date of the expenditure.

The report of disbursements shall itemize any expenditure made by credit card payment.

E. Each report for a political party committee shall list separately those receipts and expenditures reported to the treasurer or other officer of the committee by any person, campaign committee, or political committee pursuant to subsection B of § 24.2-950.3, and in the case of in-kind contributions, shall set forth in each instance the source of the information reported.

F. The report shall list separately all loans, and for each loan, shall give:

1. The date the loan was made;
2. The name and address of the person making the loan and any person who is a co-borrower, guarantor, or endorser of the loan;
3. The amount of the loan;
4. The date and amount of any repayment of the loan; and
5. For any loan or part of a loan that is forgiven by the lender, the amount forgiven listed as both a contribution and loan repayment.

G. The State Board shall provide for a "no activity" report that may be filed for any reporting period in which the filer has no activity to report.

H. It is the responsibility of the treasurer that the report for the political party committee be filed and that the report be in full and accurate detail.

§ 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

182 that term is defined in § 30-101, of the committee's treasurer or chief executive.

183 *C. Notwithstanding any provision of this section, amounts received by a political party committee as*
184 *contributions and kept in a separate legal fund shall be disposed of only by (i) returning the excess to a*
185 *contributor in an amount not to exceed the contributor's original contribution or (ii) donating the excess*
186 *to any organization described in § 170(c) of the Internal Revenue Code.*

187 **§ 24.2-953.6. Violation of contribution limits; penalties.**

188 *A. Any person or committee in violation of the limits imposed in Article 2.1 (§ 24.2-946.6 et seq.) is*
189 *guilty of a Class 3 misdemeanor and shall be subject to a civil penalty equal to the amount by which a*
190 *contribution is found to exceed the limit. The State Board shall assess and collect such civil penalties,*
191 *which shall be payable to the Literary Fund.*

192 *B. Any person who knowingly subdivides contributions into smaller amounts or uses other entities as*
193 *a conduit for the purpose of evading contribution limits imposed in Article 2.1 (§ 24.2-946.6 et seq.) is*
194 *guilty of a Class 1 misdemeanor and shall be subject to a civil penalty of up to two times the amount*
195 *by which the contribution exceeds the limit. The State Board shall assess and collect such civil*
196 *penalties, which shall be payable to the Literary Fund.*