

**Department of Planning and Budget
2022 Fiscal Impact Statement**

1. Bill Number: SB463

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Bell

3. Committee: Privileges and Elections

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

5. Summary: Prohibits any person from converting contributions to a candidate or a candidate's campaign committee for their personal use. Current law only prohibits such conversion of contributions with regard to disbursement of surplus funds at the dissolution of a campaign or political committee. The bill provides that a contribution is considered to have been 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 the person's seeking, holding, or maintaining public office but excepts from "personal use" the ordinary and accepted expenses related to campaigning for or holding elective office, including the use of campaign funds to pay for the candidate's child care expenses that are incurred as a direct result of campaign activity. Any person subject to the personal use ban may request an advisory opinion from the State Board of Elections on such matters. Complaints of alleged violations may be made by any person who contributes to the campaign or is qualified to vote for the office for which the candidate is running. Complaints shall be made subject to a Class 5 felony for false statements. The Department of Elections and State Board of Elections shall review complaints and the State Board shall make a determination whether a violation was made and its recommended remedy. The bill directs the State Board of Elections to adopt emergency regulations similar to those promulgated by the Federal Election Commission to implement the provisions of the bill and to provide an updated summary of Virginia campaign finance law that reflects the Attorney General's opinion and any new regulations promulgated by the State Board of Elections.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Preliminary; see Item 8.

8. Fiscal Implications: This bill would require the Department of Elections (ELECT) and State Board of Elections (SBE) to field and evaluate complaints from voters and those who contribute to campaigns who they believe are in violation of the personal use prohibitions provided in § 24.2-948.5 of the bill. ELECT and SBE would be responsible for investigations, hearings, and fee assessments for those campaigns suspected of violating the

rules. SBE and ELECT do not currently conduct investigations involving campaign finance violations or field complaints in this manner. Therefore, there is no existing data upon which the level of resources needed to carry out the functions outlined in the bill can be estimated. The impact of reviewing allegations of personal use violations is indeterminate and would depend upon the number of complaints. However, with SBE and ELECT's current workload and staff level, they have very limited capacity to absorb additional workload and may require additional staffing to carry out the functions required in the bill such as gathering documentation and other evidence and notifying parties of complaints. For illustration purposes, ELECT estimates the cost of a full time Hearing and Legal Services Manager I to be \$156,464.

This bill also authorizes SBE to assess and collect a civil penalty from anyone who is found to be in violation of the personal use prohibitions willfully and knowingly. Such penalty may be up to \$1,000 per itemized expenditure found to be in violation, not to exceed \$10,000. The civil penalty shall be payable to the State Treasurer and deposited into the general fund. Therefore, the proposed legislation may have a revenue impact; however, the number and amounts of any civil penalties assessed and collected as a result of the legislation cannot be determined.

Any potential impact from the provision making complaints subject to a Class 5 felony for false statements and the number of people that may be convicted from this provision is unknown. According to data provided by the Virginia Criminal Sentencing Commission, between FY2016 and FY2021 there were 14 convictions of making a false statement under § 24.2-1016, none of which received active terms of incarceration. This suggests that, even if convicted of this felony, a defendant affected by the proposed legislation would be unlikely to receive a state-responsible prison term.

Any potential impact to the Office of the Attorney General and Department of Law is unknown at this time. A revised impact statement will be posted when more information is available.

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

10. Technical Amendment Necessary: No.

11. Other Comments: This statement has been revised to include additional information regarding the number of historic convictions and incarcerations related to Class 5 felonies under § 24.2-1016, Code of Virginia. This bill is identical to HB 973 and HB 1296.

Date: 2/3/2022