

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

**1. Bill Number:** HB40

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

**2. Patron:** Simon

**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 his campaign committee to 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 allows a contribution to be used for 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. The bill provides that any person subject to the personal use ban may request an advisory opinion from the State Board of Elections on such matters. 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 publish an updated summary of Virginia campaign finance law that reflects the State Board of Elections" and Attorney General's guidance on the provisions of such law that prohibit the personal use of campaign funds and any new regulations promulgated by the State Board of Elections.

**6. Budget Amendment Necessary:** Yes; see below.

**7. Fiscal Impact Estimates:** Preliminary, see below.

**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 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. There is currently 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 plus the required timelines

for action current staff level does not have the capacity to absorb the additional workload and may require additional staffing to carry out the functions required in the bill. For illustration purposes, ELECT estimates the cost of a full time Hearing and Legal Services Manager I to be \$168,094 with an additional Administrative Support person to be \$99,245.

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. This 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. This bill may have a revenue impact, though the number and amounts of any civil penalties assessed and collected cannot be determined.

The Office of the Attorney General would require two attorneys and one paralegal to consult with the State Board of Elections in its development and publication of guidance prohibiting the personal use of campaign funds. Estimates for this cost include \$302,249 for the attorney salary and benefits and \$100,178 for the paralegal salary and benefits. An additional \$10,000 per additional staff for overhead is added, totaling \$429,426 to implement the provisions of this bill.

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

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** This bill is similar to HB629, HB1360, and SB377.

January 23, 2024