

Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement

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ORIGINAL

Bill Number: HB 2165

Patron: Cole

Bill Title: Campaign finance; prohibited personal use of campaign funds; complaints, hearings, civil penalty, and advisory opinions.

Bill Summary: Prohibits any person from converting contributions to a candidate or his campaign committee for 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 dependent 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.

Budget Amendment Necessary: No

Items Impacted: N/A

Explanation: N/A

Fiscal Summary: 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. There has been research done using neighboring states with similar requirements that suggest the resources needed to carry out the requirement of the bill to be minimum. Due to the provision requiring The Office of the Attorney General to provide guidance on provisions of campaign finance law that prohibit personal use they will also have an indeterminate fiscal impact. The proposal also requires minimum "Woodrum" impact funding per § 30-19.1:4, Code of Virginia, to account for a possible increase in the need for state prison beds due to this legislation.

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General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
The Department of Elections	-	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate
The Department of Corrections	-	\$50,000	-	-	-	-
TOTAL	-	\$50,000	-	-	-	-

Position Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
The Department of Elections	-	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate
TOTAL						

Fiscal Analysis: Depending on the volume of complaints and advisory opinion requests, this could demand substantial staff resources particularly from ELECT's campaign finance and policy departments. The Department would also need to dedicate information services staff and resources to develop a system through which Virginians can submit complaints under the terms of this bill and through which advisory opinions can be requested and issued. The State Board could also see a significant increase in its responsibilities depending on the volume of complaints; in that case, significant support staff from Department would be needed to assist the State Board. 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 plus an additional Administrative Support person \$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 treasury in a special non-reverting fund to be known as the Prohibited Personal Use Enforcement Fund. The fund is created through the provisions of the bill in section § 24.2-948.9. Moneys in this fund shall be used solely for the purposes of administering the provisions of §§ 24.2-948.6, 24.2-948.7, and 24.2-948.8. This bill may have a revenue impact, though the number and amounts of any civil penalties assessed and collected cannot be determined. Anyone found in violation of this legislation may be charged with a Class 5 felony. Penalties for a Class 5 felony may include imprisonment for a term of no less than one year and no more than 10 years, or, at the discretion of the jury or the court (if the case is tried without a jury), confinement in jail for up to 12 months, along with a fine of up to \$2,500, or both. The fiscal impact of expanding the scope of the Class 5 felony offense is indeterminate however, Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional

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facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. The fiscal impact to the Office of the Attorney General is unknown at this time. There is a requirement through the provisions of the bill to provide guidance to the Department of Elections. The amount of support necessary is undetermined at this time.

The provisions of the first enactment of this act shall become effective July 1, 2026, creating the Prohibited Personal Use Enforcement Fund. The State Board of Elections under the provisions of this bill with promulgate regulations to implement the requirements of the bill within 280 days of its enactment.

Other: Similar legislation includes HB 1686.