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**WEST VIRGINIA CODE CHAPTER 3**  
**ARTICLE 12**

WV Legislature

**§3-12-1. Short title.**

This article is known as the "West Virginia Supreme Court of Appeals Public Campaign Financing Program."

WV Legislature

**§3-12-2. Legislative findings and declarations.**

The Legislature finds and declares the following:

- (1) Current campaign finance laws permit candidates to spend unlimited amounts of money raised from private sources;
- (2) Current campaign finance laws permit certain independent parties to raise and spend unlimited amounts of money to influence the outcome of elections;
- (3) Over the last decade, fundraising and campaign expenditures in elections for a seat on the Supreme Court of Appeals have dramatically increased in West Virginia;
- (4) In 2000, candidates running for a seat on the Supreme Court of Appeals raised a total of \$1.4 million;
- (5) In 2004, candidates running for a seat on the Supreme Court of Appeals raised a total of \$2.8 million;
- (6) In 2008, candidates running for a seat on the Supreme Court of Appeals raised a total of \$3.3 million;
- (7) In 2012, candidates running for a seat on the Supreme Court of Appeals raised a total of \$3.7 million.
- (8) As spending by candidates and independent parties increases, so does the perception that contributors and interested third parties hold too much influence over the judicial process;
- (9) The detrimental effects of spending large amounts by candidates and independent parties are especially problematic in judicial elections because impartiality is uniquely important to the integrity and credibility of courts;
- (10) As demonstrated by the 2012 West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program, an alternative public campaign financing option for candidates running for a seat on the Supreme Court of Appeals will ensure the fairness of democratic elections in this state, protect the Constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, protect the impartiality and integrity of the judiciary, and strengthen public confidence in the judiciary; and
- (11) Funding the "West Virginia Supreme Court of Appeals Public Campaign Financing Program" from a wide range of revenue sources furthers important state interests in protecting the integrity of judicial elections and serves to protect the public interest.

**§3-12-3. Definitions.**

As used in this article, the following terms and phrases have the following meanings:

(1) "Candidate's committee" means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(2) "Certified candidate" means an individual seeking election to the West Virginia Supreme Court of Appeals who has been certified in accordance with section ten of this article as having met all of the requirements for receiving public campaign financing from the fund.

(3) "Contribution" means a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: Provided, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(4) "Exploratory contribution" means a contribution of no more than \$1,000 made by an individual adult, including a participating candidate and members of his or her immediate family, during the exploratory period but prior to filing the declaration of intent. Exploratory contributions may not exceed \$20,000 in the aggregate.

(5) "Exploratory period" means the period during which a participating candidate may raise and spend exploratory contributions to examine his or her chances of election and to qualify for public campaign financing under this article. The exploratory period begins on January 1 the year before the election in which the candidate may run for Justice of the Supreme Court of Appeals and ends on the last Saturday in January of the election year.

(6) "Financial agent" means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(7) "Fund" means the Supreme Court of Appeals Public Campaign Financing Fund created by section five of this article.

(8) "Immediate family" or "immediate family members" means the spouse, parents, step-

parents, siblings and children of the participating candidate.

(9) "Nonparticipating candidate" means a candidate who is:

(A) Seeking election to the Supreme Court of Appeals;

(B) Is neither certified nor attempting to be certified to receive public campaign financing from the fund; and

(C) Has an opponent who is a participating or certified candidate.

(10) "Nonpartisan judicial election campaign period" means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of this chapter, and ending on the day of the nonpartisan judicial election.

(11) "Participating candidate" means a candidate who is seeking election to the Supreme Court of Appeals and is attempting to be certified in accordance with section ten of this article to receive public campaign financing from the fund.

(12) "Person" means an individual, partnership, committee, association and any other organization or group of individuals.

(13) "Qualifying contribution" means a contribution received from a West Virginia registered voter of not less than \$1 nor more than \$100 in the form of cash, check or money order, made payable to a participating candidate or the candidate's committee, or in the form of an electronic payment or debit or credit card payment, received during the qualifying period.

(14) "Qualifying period" means the period during which participating candidates may raise and spend qualifying contributions in order to qualify to receive public campaign financing.

For candidates seeking to be placed on the nonpartisan judicial election ballot, the qualifying period begins on September 1 preceding the election year and ends on the last Saturday in January of the election year.

**§3-12-4. Alternative public campaign financing option.**

This article establishes an alternative public campaign financing option available to candidates for election to the office of Justice of the West Virginia Supreme Court of Appeals. Candidates electing the alternative public campaign financing option shall comply with all other applicable election and campaign laws and rules.

WV Legislature

**§3-12-5. Supreme Court of Appeals Public Campaign Financing Fund.**

There is established within the State Treasury a special revenue fund to be known as the "Supreme Court of Appeals Public Campaign Financing Fund" for the dual purpose of providing public financing for the election campaigns of certified candidates under the provisions of this article and of paying the administrative and enforcement costs of the Secretary of State and State Election Commission related to this article. All moneys collected under the provisions of this article shall be deposited in the fund, which shall be administered by the State Election Commission. Funds may also be accepted from any gift, grant, bequest, endowment fund or donation which may be received by the State Election Commission from any person, firm, foundation or corporation. Any balance, including accrued interest or other earnings in the fund at the end of any fiscal year do not revert to the General Revenue Fund, but shall remain in the fund. Expenditures may be made from the fund only for the purposes set forth in this article and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.

**§3-12-6. Sources of revenue for the fund.**

Revenue from the following sources shall be deposited in the fund:

- (1) All exploratory and qualifying contributions in excess of the established maximums;
- (2) Money returned by participating or certified candidates who fail to comply with this article;
- (3) Unspent or unobligated moneys allotted to certified candidates and remaining unspent or unobligated on the date of the nonpartisan judicial election for which the money was distributed;
- (4) If a certified candidate loses, all remaining unspent or unobligated moneys;
- (5) Civil penalties levied by the State Election Commission against candidates for violations of this article;
- (6) Civil penalties levied by the Secretary of State pursuant to section seven, article eight of this chapter;
- (7) Voluntary donations made directly to the fund;
- (8) Any interest income or other return earned on the money's investment;
- (9) On or before July 1, 2010, and for two successive years thereafter, the State Auditor shall authorize the transfer of the amount of \$1 million from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article;
- (10) On or before July 1, 2015, the state Auditor shall authorize the transfer of the amount of \$400,000 from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article; and
- (11) Money appropriated to the fund.

**§3-12-7. Declaration of intent.**

A candidate desiring to receive campaign financing from the fund shall first file a declaration of intent before the end of the qualifying period and prior to collecting any qualifying contributions. The declaration shall be on a form prescribed by the State Election Commission and shall contain a statement that the candidate is qualified to be placed on the ballot, and, if elected, to hold the office sought and has complied with and will continue to comply with all requirements of this article, including contribution and expenditure restrictions. A candidate may not collect exploratory contributions after filing the declaration of intent. Contributions made prior to the filing of the declaration of intent are not qualifying contributions. Any contributions received by a candidate during any precandidacy period which preceded the exploratory period which remain unexpended at the time of the declaration of intent shall be considered exploratory funds and subject to the limits and provisions of section eight of this article.

**§3-12-8. Exploratory period; contributions; expenditures.**

(a) A participating candidate or his or her committee may not accept, spend or obligate exploratory contributions exceeding \$20,000 in the aggregate, during the exploratory period. At the time the participating candidate formally declares his or her intent to qualify for public campaign financing, in accordance with section five of this article, any unexpended or undedicated contributions received during any precandidacy period which preceded the exploratory period shall be deemed to be exploratory contributions for that candidate. The maximum individual exploratory contribution which may be accepted from any person including immediate family members is \$1,000. A participating candidate may loan, contribute or obligate up to \$1,000 of his or her own money for exploratory purposes. Any exploratory contributions received by the participating candidate in excess of \$20,000 in the aggregate shall be sent to the Election Commission for deposit in the fund.

(b) Each exploratory contribution shall be acknowledged by a written receipt. Receipts for exploratory contributions of \$250 or more during an election cycle shall include the contributor's name, residence and mailing address, business affiliation and occupation. Receipts for exploratory contributions of less than \$250 shall include the contributor's name and the amount of the contribution, and otherwise comport with the disclosure and reporting requirements of section five-a, article eight of this chapter.

(c) An exploratory contribution from one person may not be made in the name of another person.

(d) At the beginning of each month a participating or certified candidate or his or her financial agent shall report all exploratory contributions, expenditures and obligations along with all receipts for contributions received during the prior month to the Secretary of State. Such reports shall be filed electronically: Provided, That a committee may apply for an exemption in case of hardship pursuant to subsection (c) of section five-b, article eight of this chapter. If the candidate decides not to run for office all unspent or unobligated exploratory contributions shall be sent to the State Election Commission for deposit in the fund. If the candidate decides to run for office as a nonparticipating candidate the unspent or unobligated exploratory contributions shall be used in accordance with articles eight and twelve of this chapter.

**§3-12-9. Qualifying contributions.**

(a) A participating candidate or his or her candidate's committee may not accept more than one qualifying contribution from a single individual. A qualifying contribution may not be less than \$1 nor more than \$100. To be considered as a proper qualifying contribution, the qualifying contribution must be made by a registered West Virginia voter. A participating candidate shall collect qualifying contributions which in the aggregate are not less than \$35,000 nor more than \$50,000. Qualifying contributions in excess of \$50,000 shall be sent to the State Election Commission for deposit in the fund.

(b) Each qualifying contribution shall be acknowledged by a written receipt that includes:

(1) The printed name of the participating candidate on whose behalf the contribution is made and the signature of the person who collected the contribution for the candidate or his or her candidate's committee;

(2) For qualifying contributions of \$25 or more, the contributor's signature, printed name, street address, zip code, telephone number, occupation and name of employer; and for qualifying contributions of less than \$25, the contributor's signature, printed name, street address and zip code;

(3) A statement above the contributor's signature that:

(A) The contributor understands the purpose of the contribution is to assist the participating candidate in obtaining public campaign financing;

(B) The contribution was made without coercion;

(C) The contributor has not been reimbursed, received or promised anything of value for making the contribution; and

(4) One copy of the receipt shall be given to the contributor, one copy shall be retained by the candidate and one copy shall be sent by the candidate to the Secretary of State. A contribution which is not acknowledged by a written receipt in the form required by this subsection is not a qualifying contribution.

(c) During the qualifying period, a participating candidate or his or her candidate's committee must obtain at least five hundred qualifying contributions from registered West Virginia voters. A minimum of ten percent of the total number of qualifying contributions received by the candidate must be from each of the state's congressional districts.

(d) A participating candidate and each member of the candidate's immediate family who is a registered voter in this state may each make one qualifying contribution. A participating candidate may not use any other personal funds to satisfy the qualifying contributions requirements.

(e) A participating candidate may not reimburse, give or promise anything of value in exchange for a qualifying contribution.

(f) At the beginning of each month, a participating or certified candidate or his or her financial agent or committee shall report all qualifying contributions, expenditures and obligations along with all receipts for contributions received during the prior month to the Secretary of State. Such reports shall be filed electronically: Provided, That a committee may apply for an exemption in case of hardship pursuant to subsection (c) of section five-b, article eight of this chapter. If the candidate decides not to run for office, all unspent or unobligated qualifying contributions shall be sent to the State Election Commission for deposit in the fund. If the candidate decides to run for office as a nonparticipating candidate, the unspent or unobligated qualifying contributions shall be used in accordance with articles eight and twelve of this chapter.

(g) All qualifying contributions collected and all expenditures by a participating candidate or his or her committee shall be reported to the Secretary of State no later than two business days after the close of the qualifying period.

(h) (1) Individuals are limited to not more than one \$100 contribution during the qualifying period.

(2) An individual may not contribute more than \$1,000 in the aggregate in exploratory and qualifying contributions.

(3) All contributions to candidates participating in the West Virginia Supreme Court of Appeals Public Campaign Financing Program shall be collected by the candidates' designated financial agent.

**§3-12-10. Certification of candidates.**

(a) To be certified, a participating candidate shall apply to the State Election Commission for public campaign financing from the fund and file a sworn statement that he or she has complied and will comply with all requirements of this article throughout the applicable campaign.

(b) Upon receipt of a notice from the Secretary of State that a participating candidate has received the required number and amount of qualifying contributions, the State Election Commission shall determine whether the candidate or candidate's committee:

(1) Has signed and filed a declaration of intent as required by section seven of this article;

(2) Has obtained the required number and amount of qualifying contributions as required by section nine of this article;

(3) Has complied with the contribution restrictions of this article;

(4) Is eligible, as provided in section nine, article five of this chapter, to appear on the nonpartisan judicial election ballot; and

(5) Has met all other requirements of this article.

(c) The State Election Commission shall process applications in the order they are received and shall verify a participating candidate's compliance with the requirements of subsection (b) of this section by using the verification and sampling techniques approved by the State Election Commission.

(d) The State Election Commission shall determine whether to certify a participating candidate as eligible to receive public campaign financing no later than three business days after the candidate or the candidate's committee makes his or her final report of qualifying contributions or, if a challenge is filed under subsection (g) of this section, no later than six business days after the candidate or the candidate's committee makes his or her final report of qualifying contributions. A certified candidate shall comply with this article through the nonpartisan judicial election campaign period.

(e) No later than two business days after the State Election Commission certifies that a participating candidate is eligible to receive public campaign financing under this section, the State Election Commission, acting in concert with the State Auditor's office and the State Treasurer's office, shall cause a check to be issued to the candidate's campaign depository account an amount equal to the public campaign financing benefit for which the candidate qualifies under section eleven of this article, minus the candidate's qualifying contributions, and shall notify all other candidates for the same office of its determination.

(f) If the candidate desires to receive public financing benefits by electronic transfer, the candidate shall include in his or her application sufficient information and authorization for

the State Treasurer to transfer payments to his or her campaign depository account.

(g) Any person may challenge the validity of any contribution listed by a participating candidate by filing a written challenge with the State Election Commission setting forth any reason why the contribution should not be accepted as a qualifying contribution. If a contribution is challenged under this subsection, the State Election Commission shall decide the validity of the challenge no later than the end of the next business day after the day that the challenge is filed, unless the State Election Commission determines that the candidate whose contribution is challenged has both a sufficient qualifying number and amount of qualifying contributions to be certified as a candidate under this section without considering the challenge. Within five business days of a challenge, the candidate or candidate's committee who listed any contribution that is the subject of a challenge may file a report with the State Election Commission of an additional contribution collected pursuant to section nine of this article for consideration as a qualifying contribution.

(h) A candidate's certification and receipt of public campaign financing may be revoked by the State Election Commission, if the candidate violates this article. A certified candidate who violates this article shall repay all moneys received from the fund to the State Election Commission.

(i) The determination of any issue before the State Election Commission is the final administrative determination. Any meetings conducted by the State Elections Commission to certify a candidate's eligibility to receive funds under this article shall not be subject the public notice and open meeting requirements of article nine-a, chapter six of this code, but the commission shall concurrently provide public notice of any decision and determination it makes which impacts the candidate's eligibility to receive funds pursuant to this article. Any person adversely affected by a decision of the State Election Commission under this article may appeal that decision to the circuit court of Kanawha County.

(j) A candidate may withdraw from being a certified candidate and become a nonparticipating candidate at any time with the approval of the State Election Commission. Any candidate seeking to withdraw shall file a written request with the State Election Commission, which shall consider requests on a case-by-case basis. No certified candidate may withdraw until he or she has repaid all moneys received from the fund: Provided, That the State Election Commission may, in exceptional circumstances, waive the repayment requirement. The State Election Commission may assess a penalty not to exceed \$10,000 against any candidate who withdraws without approval.

**§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing Fund payments.**

(a) The State Election Commission, acting in concert with the State Auditor's office and the State Treasurer's office, shall have a check issued within two business days after the date on which the candidate is certified, to make payments from the fund for the nonpartisan judicial election campaign period available to a certified candidate.

In a contested nonpartisan judicial election, a certified candidate shall receive \$525,000 in campaign financing from the fund, minus the certified candidate's qualifying contributions.

(b) The State Election Commission shall authorize the distribution of campaign financing moneys to certified candidates in equal amounts. The commission shall propose a legislative rule on distribution of funds.

(c) The State Election Commission may not authorize or direct the distribution of moneys to certified candidates in excess of the total amount of money deposited in the fund pursuant to section six of this article. If the commission determines that the money in the fund is insufficient to totally fund all certified candidates, the commission shall authorize the distribution of the remaining money proportionally, according to each candidate's eligibility for funding. Each candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the candidate's eligible funding.

**§3-12-12. Restrictions on contributions and expenditures.**

(a) A certified candidate or his or her committee may not accept loans or contributions from any private source, including the personal funds of the candidate and the candidate's immediate family, during the nonpartisan judicial election campaign period except as permitted by this article.

(b) After filing the declaration of intent and during the qualifying period, a participating candidate may not spend or obligate more than he or she has collected in exploratory and qualifying contributions. After the qualifying period and through the nonpartisan judicial election campaign period, a certified candidate may spend or obligate any unspent exploratory or qualifying contributions and the moneys he or she receives from the fund under the provisions of section eleven of this article.

(c) A participating or certified candidate may expend exploratory and qualifying contributions and funds received from the fund only for lawful election expenses as provided in section nine, article eight of this chapter. Moneys distributed to a certified candidate from the fund may be expended only during the nonpartisan judicial election campaign period for which funds were dispersed. Money from the fund may not be used:

- (1) In violation of the law;
- (2) To repay any personal, family or business loans, expenditures or debts; or
- (3) To help any other candidate.

(d) A certified candidate or his or her committee shall return to the fund any unspent and unobligated exploratory contributions, qualifying contributions or moneys received from the fund within forty-eight hours after the date on which the candidate ceases to be certified.

(e) A certified candidate or his or her committee shall return to the fund any unspent or unobligated public campaign financing funds no later than five business days after the nonpartisan judicial election.

(f) A contribution from one person may not be made in the name of another person.

(g) A participating or certified candidate or his or her committee receiving qualifying contributions or exploratory contributions from a person not listed on the receipt required by sections eight and nine of this article is liable to the State Election Commission for the entire amount of that contribution and any applicable penalties.

(h) A certified candidate accepting any benefits under the provisions of this article shall continue to comply with all of its provisions throughout the nonpartisan judicial election campaign period.

(i) A participating or certified candidate or his or her financial agent shall provide the

Secretary of State with all requested campaign records, including all records of exploratory and qualifying contributions received and campaign expenditures and obligations, and shall fully cooperate with any audit of campaign finances requested or authorized by the State Election Commission.

WV Legislature

**§3-12-13. Reporting requirements.**

(a) Participating candidates and certified candidates shall comply with this section in addition to any other reporting required by this chapter.

(b) During the exploratory and qualifying periods, a participating candidate or his or her financial agent shall submit, on the first of each month, a report of all exploratory and qualifying contributions along with their receipts and an accounting of all expenditures and obligations received during the immediately preceding month. The reports shall be on forms or in a format prescribed by the Secretary of State. Such reports shall be filed electronically: Provided, That a committee may apply for an exemption, in case of hardship, pursuant to subsection (c) of section five-b, article eight of this chapter.

(c) No later than two business days after the close of the qualifying period, a participating candidate or his or her financial agent shall report to the Secretary of State on appropriate forms a summary of:

(1) All exploratory contributions received and funds expended or obligated during the exploratory period together with copies of any receipts not previously submitted for exploratory contributions; and

(2) All qualifying contributions received and funds expended or obligated during the qualifying period together with copies of any receipts not previously submitted for qualifying contributions.

(d) A certified candidate or his or her financial agent shall file periodic financial statements in accordance with section five, article eight of this chapter, detailing all funds received, expended or obligated during the specified periods. The reports shall be on forms approved by the Secretary of State.

**§3-12-14. Duties of the State Election Commission; Secretary of State.**

(a) In addition to its other duties, the State Election Commission shall carry out the duties of this article and complete the following as applicable:

- (1) Prescribe forms for reports, statements, notices and other documents required by this article;
- (2) Make an annual report to the Legislature accounting for moneys in the fund, describing the State Election Commission's activities and listing any recommendations for changes of law, administration or funding amounts;
- (3) Propose emergency and legislative rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, as may be necessary for the proper administration of this article;
- (4) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;
- (5) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;
- (6) Cause an audit of the fund to be conducted by independent certified public accountants ninety days after a nonpartisan judicial election. The State Election Commission shall cooperate with the audit, provide all necessary documentation and financial records to those persons conducting the audit and shall maintain a record of all information supplied by the audit;
- (7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the commission shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability and safeguards the integrity of the fund;
- (8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to determine whether the fund will have sufficient moneys to meet its obligations and sufficient moneys available for disbursement during the nonpartisan judicial election campaign period; and
- (9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment Management Board for their supervised investment, after consultation with the State Treasurer, the State Auditor and the West Virginia Investment Management Board.

(b) In addition to his or her other duties, the Secretary of State shall carry out the duties of this article and complete the following as applicable:

- (1) Prescribe forms for reports, statements, notices and other documents required by this article;
  - (2) Prepare and publish information about this article and provide it to potential candidates and citizens of this state;
  - (3) Prepare and publish instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with this article and to explain the duties of candidates and others participating in elections under this article;
  - (4) Propose emergency and legislative rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code as may be necessary for the proper administration of this article;
  - (5) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;
  - (6) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;
  - (7) Ensure public access to the campaign finance reports required pursuant to this article, and whenever possible, use electronic means for the reporting, storing and display of the information; and
  - (8) Prepare a voters' guide for the general public listing the names of each candidate seeking election to the Supreme Court of Appeals. Both certified and nonparticipating candidates shall be invited by the State Election Commission to submit a statement, not to exceed five hundred words in length, for inclusion in the guide. The guide shall identify the candidates that are certified candidates and the candidates that are nonparticipating candidates. Copies of the guide shall be posted on the website of the Secretary of State, as soon as may be practical.
- (c) To fulfill their responsibilities under this article, the State Election Commission and the Secretary of State may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require, by subpoena, the production of any books, papers, records or other items material to the performance of their duties or the exercise of their powers.
- (d) The State Election Commission may also propose and adopt procedural rules to carry out the purposes and provisions of this article and to govern procedures of the State Election Commission as it relates to the requirements of this article.

**§3-12-15. Criminal penalties.**

(a) A participating or certified candidate who, either personally or through his or her committee, knowingly accepts contributions or benefits in excess of those allowed under this article, spends or obligates funds in excess of the public campaign financing funding to which he or she is entitled or uses the benefits or funding for a purpose other than those permitted under this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500, or confined in jail for up to thirty days or both.

(b) A participating or certified candidate who, either personally or through his or her committee or financial agent, provides false information to, or conceals or withholds information from, the State Election Commission or the Secretary of State is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$10,000, or confined in jail for up to one year or both.

**§3-12-16. Civil penalties.**

- (a) If a participating or certified candidate or his or her committee or financial agent unintentionally accepts contributions from a private source in violation of this article or spends or obligates to spend more than the amount of public financing money he or she is eligible to receive from the fund pursuant to section eleven of this article, the State Election Commission may order the candidate to pay to the State Election Commission an amount equal to the amount of the contribution, expenditure or obligation.
- (b) If a participating or certified candidate or his or her committee or financial agent intentionally accepts contributions from a private source in violation of this article or spends or obligates more than the amount of public campaign financing he or she is eligible to receive from the fund, the State Election Commission shall order the candidate to pay to the State Election Commission an amount equal to ten times the amount of the contribution, expenditure or obligation. The candidate shall pay the civil penalty authorized under this subsection within seven days of receipt of written notice from the State Election Commission of the imposition of the penalty.
- (c) If a participating or certified candidate fails to pay any moneys required to be paid to the State Election Commission or returned to the fund under this article, the State Election Commission may order the candidate to pay an amount equal to three times the amount that should have been paid to the State Election Commission or returned to the fund.
- (d) In addition to any other penalties imposed by law, the State Election Commission may impose a civil penalty for a violation by or on behalf of any candidate of any reporting requirement imposed by this article in the amount of \$100 a day.
- (e) All penalties collected by the State Election Commission pursuant to this section shall be deposited into the fund. The candidate and the candidate's campaign account are jointly and severally responsible for the payment of any penalty imposed pursuant to this section.

**§3-12-17.**

Repealed.

Acts, 2013 Reg. Sess., Ch. 70.

WV Legislature