WEST VIRGINIA CODE CHAPTER 3 ARTICLE 8

WV Legislature

§3-8-1. Provisions to regulate and control elections.

(a) The Legislature finds that:

(1) West Virginia's population is 1,808,344, ranking 37th among the fifty states.

(2) State Senate districts have a population of approximately one hundred six thousand three hundred seventy-three, and the average Delegate district has a population of approximately thirty-one thousand, one hundred seventy-eight. The size of these districts is substantially smaller than the United States Senatorial and Congressional Districts.

(3) When the relatively small size of the State's legislative and other voting districts is combined with the economics and typical uses of various forms of electioneering communication, history shows that non-broadcast media is and will continue to be a widely used means of making campaign related communications to target relevant audiences. Consequently, non-broadcast communications are prevalent during elections.

(4) Disclosure provisions are appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions, and the ceilings imposed accordingly serve the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion.

(5) Disclosure of expenditures serve a substantial governmental interest in informing the electorate and preventing the corruption of the political process.

(6) Disclosure by persons and entities that make expenditures for communications that expressly advocate the election or defeat of clearly identified candidates, or perform its functional equivalent, is a reasonable and minimally restrictive method of furthering First Amendment values by public exposure of the state election system.

(7) Failing to regulate non-broadcast media messages would permit those desiring to influence elections to avoid the principles and policies that are embodied in existing state law.

(8) The regulation of the various types of non-broadcast media in addition to broadcast media, is tailored to meet the circumstances found in the State of West Virginia.

(9) Non-broadcast media such as newspapers, magazines or other periodicals have proven to be effective means of election communication in West Virginia. Broadcast, satellite and non-broadcast media have all been used to influence election outcomes.

(10) Certain non-broadcast communications, such as newspaper inserts, can be more effective campaign methods than broadcast media because such communications can be targeted to registered voters or historical voters in the particular district. In contrast,

WV Legislature

broadcasted messages reach all of the general public, including person ineligible to vote in the district.

(11) Non-broadcast media communications in the final days of a campaign can be particularly damaging to the public's confidence in the election process because they reduce or make impossible an effective response.

(12) Identifying those funding non-broadcast media campaigns in the final days of a campaign may at least permit voters to evaluate the credibility of the message.

(13) In West Virginia, contributions up to the amounts specified in this article allow contributors to express their opinions, level of support and their affiliations.

(14) In West Virginia, campaign expenditures by entities and persons who are not candidates have been increasing. Public confidence is eroded when substantial amounts of such money, the source of which is hidden or disguised, is expended. This is particularly true during the final days of a campaign.

(15) In West Virginia, contributions to political organizations, defined in Section 527(e)(1) of the Internal Revenue Code of 1986, substantially larger than the amounts permitted to be received by a candidate's political committee have been recorded and are considered by the legislature to be large contributions.

(16) Independent expenditures intended to influence candidates' campaigns in the state are increasingly utilizing non-broadcast media to support or defeat candidates.

(17) Identification of persons or entities funding political advertisements assists in enforcement of the contribution and expenditure limitations established by this article and simply informs voters of the actual identities of persons or entities advocating the election or defeat of candidates.

(18) Identification of persons or entities funding political advertisements allows voters to evaluate the credibility of the message contained in the advertisement.

(19) Disclosure of the identity of persons or entities funding political communications regarding candidates bolsters the right of listeners to be fully informed.

(b) Political campaign contributions, receipts and expenditures of money, advertising, influence and control of employees, and other economic, political and social control factors incident to primary, special and general elections shall be regulated and controlled by the provisions of this article and other applicable provisions of this chapter.

WV Legislature

§3-8-1a. Definitions.

As used in this article, the following terms have the following definitions:

(1) "Ballot issue" means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter or revision, an increase or decrease of corporate limits, or any other question that is placed before the voters for a binding decision.

(2) "Billboard advertisement" means a commercially available outdoor advertisement, sign, or similar display regularly available for lease or rental to advertise a person, place, or product.

(3) "Broadcast, cable, or satellite communication" means a communication that is publicly distributed by a television station, radio station, cable television system, or satellite system.

(4) "Candidate" means an individual who:

(A) Has filed a certificate of announcement under §3-5-7 of this code or a municipal charter;

(B) Has filed a declaration of candidacy under §3-5-23 of this code;

(C) Has been named to fill a vacancy on a ballot; or

(D) Has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election for any state, district, county, municipal, or party office to be filled at any primary, general, or special election.

(5) "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 are considered one committee for the purpose of contribution limits.

(6) "Caregiving services" means direct care, protection, and supervision of a child, or other person with a disability or a medical condition, for which a candidate has direct caregiving responsibility. For the purposes of this article, the caregiving service expense incurred shall be in direct connection with the candidate’s campaign activities during the current election cycle.

(7) "Caucus campaign committee" means a West Virginia House of Delegates or Senate political party caucus campaign committee that receives contributions and makes expenditures to support or oppose one or more specific candidates or slates of candidates for nomination, election, or committee membership.

(8) "Clearly identified" means that the name, nickname, photograph, drawing, or other

WV Legislature

depiction of the candidate appears, or the identity of the candidate is otherwise apparent through an unambiguous reference, such as "the Governor", "your Senator", or "the incumbent", or through an unambiguous reference to his or her status as a candidate, such as "the Democratic candidate for Governor" or "the Republican candidate for Supreme Court of Appeals".

(9) "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance, 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.

(A) A coordinated expenditure is a contribution for the purposes of this article.

(B) 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 non-monetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(10) "Coordinated expenditure" is an expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate’s committee and meeting the criteria provided in §3-8-9a of this code.

(11) "Corporate political action committee" means a political action committee that is a separate segregated fund of a corporation that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

(12) "Direct costs of purchasing, producing, or disseminating electioneering communications" means:

(A) Costs charged by a vendor, including, but not limited to, studio rental time, compensation of staff and employees, costs of video or audio recording media and talent, material and printing costs, and postage; or

(B) The cost of airtime on broadcast, cable, or satellite radio and television stations, the costs of disseminating printed materials, studio time, use of facilities, and the charges for a broker to purchase airtime.

(13) "Disclosure date" means either of the following:

(A) The first date during any calendar year on which any electioneering communication is disseminated after the person paying for the communication has spent a total of $5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications; or

(B) Any other date during that calendar year after any previous disclosure date on which the

WV Legislature

person has made additional expenditures totaling $5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications.

(14) "Election" means any primary, general, or special election conducted under the provisions of this code or under the charter of any municipality at which the voters nominate or elect candidates for public office. For purposes of this article, each primary, general, special, or local election constitutes a separate election. This definition is not intended to modify or abrogate the definition of the term "nomination" as used in this article.

(15)(A) "Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or publication in any newspaper, magazine, or other periodical that:

(i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, or the Legislature;

(ii) Is publicly disseminated within:

(I) Thirty days before a primary election in which the nomination for office sought by the candidate is to be determined; or

(II) Sixty days before a general or special election in which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate.

(B) "Electioneering communication" does not include:

(i) A news story, commentary, or editorial disseminated through the facilities of any broadcast, cable or satellite television, radio station, newspaper, magazine, or other periodical publication not owned or controlled by a political party, political committee, or candidate: *Provided*, That a news story disseminated through a medium owned or controlled by a political party, political committee, or candidate is nevertheless exempt if the news is:

(I) A bona fide news account communicated in a publication of general circulation or through a licensed broadcasting facility; and

(II) Is part of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing, or listening area;

(ii) Activity by a candidate committee, party executive committee, a caucus campaign committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to §3-8-5 of this code or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive

WV Legislature

committee, caucus committee, or a political action committee required to be reported pursuant to §3-8-2 of this code are not exempt from the reporting requirements of this section;

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;

(iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;

(v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;

(vi) A statement or depiction by a membership organization in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;

(vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate, or his or her status as a candidate; or

(viii) A communication, such as a voter’s guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for, or opposition to, the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history.

(16) "Expressly advocating" means any communication that:

(A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the incumbent nominee for Supreme Court", "cast your ballot for the Republican challenger for House of Delegates", "Smith for House", "Bob Smith in ‘04", "vote Pro-Life", or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates, "reject the incumbent";

(B) Communicates campaign slogans or individual words that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith’s the One", "Jones ‘06", "Baker", etc.; or

(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

WV Legislature

(17) "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.

(18) "Financial transactions" means all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election, or defeat of any candidate to be voted on.

(19) "Firewall" means a policy designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for a communication and those employees or consultants currently or previously providing services to a candidate, or to a committee supporting or opposing a candidate clearly identified in the communication.

(20) "Foreign national" means the following:

(A) A foreign principal, as such term is defined in 22 U.S.C. § 611(b), which includes:

(i) A government of a foreign country;

(ii) A foreign political party;

(iii) A person outside of the United States, unless it is established that such person:

(I) Is an individual and a citizen of the United States; or

(II) That such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(iv) A partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

(B) An individual who is not a citizen of the United States or a national of the United States, as defined in 8 U.S.C. § 1101(a)(22), and who is not lawfully admitted for permanent residence, as defined by 8 U.S.C. § 1101(a)(20).

(21) "Fund-raising event" or "fundraiser" means an event such as a dinner, reception, testimonial, cocktail party, auction, or similar affair through which contributions are solicited or received.

(22) "In concert or cooperation with or at the request or suggestion of" means that a candidate or his or her agent consulted with:

WV Legislature

(A) The sender regarding the content, timing, place, nature, or volume of a particular communication or communication to be made; or

(B) A person making an expenditure that would otherwise offset the necessity for an expenditure of the candidate or candidate's committee.

(23) "Independent expenditure" means an expenditure by a person:

(A) Expressly advocating the election or defeat of a clearly identified candidate, including supporting or opposing the candidates of a political party; and

(B) That is not made in concert or cooperation with or at the request or suggestion of such candidate, his or her agents, the candidate's authorized political committee, or a political party committee or its agents.

An expenditure which does not meet the criteria for an independent expenditure is considered a contribution.

(24) "Local" refers to the election of candidates to a city, county, or municipal office and any issue to be voted on by only the residents of a particular political subdivision.

(25) "Major business affiliation" means a person's employer or, if the individual is not an employee, the entity from which a person derives the majority of his or her income.

(26) "Mass mailing" means a mailing by United States mail, facsimile, or electronic mail of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period. For purposes of this subdivision, "substantially similar" includes communications that contain substantially the same template or language, but vary in nonmaterial respects such as communications customized by the recipient's name, occupation, or geographic location.

(27) "Membership organization" means a group that grants bona fide rights and privileges, such as the right to vote, to elect officers or directors, and the ability to hold office to its members and which uses a majority of its membership dues for purposes other than political purposes. "Membership organization" does not include organizations that grant membership upon receiving a contribution.

(28) "Membership organization political action committee" means a labor organization or a trade association, cooperative, or other incorporated membership organization that: Is composed of members; expressly states the qualifications for membership in its articles and by-laws; makes its articles, by-laws, and other organizational documents available to its members; expressly seeks members; acknowledges acceptance of membership, such as by sending membership cards to new members or including them on a membership newsletter list; and is organized such that it operates a subsidiary entity or segregated fund within the membership organization primarily for the purpose of influencing any election on the ballot in the State of West Virginia.

WV Legislature

(29) "Name" means the full first name, middle name, or initial, if any, and full legal last name of an individual and the full name of any association, corporation, committee, or other organization of individuals, making the identity of any person who makes a contribution apparent by unambiguous reference.

(30) “Occupation” means an individual’s trade, profession, or vocation in which the individual is engaged for the purpose of earning income or other economic benefit.

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

(32) "Political action committee" means a committee organized by one or more persons, the primary purpose of which is to support or oppose the nomination or election of one or more candidates. The following are types of political action committees:

(A) A corporate political action committee, as that term is defined in this section;

(B) A membership organization political action committee, as that term is defined in this section; and

(C) An unaffiliated political action committee, as that term is defined in this section.

(33) "Political committee" means any candidate committee, political action committee, or political party committee.

(34) "Political party" means a political party as that term is defined by §3-1-8 of this code or any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof, and including national or regional affiliates of the party.

(35) "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination, or defeat of a candidate in any election.

(36) "Political purposes" means supporting or opposing the nomination, election, or defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of the debt of a candidate or political committee or the administration or activities of an established political party or an organization which has declared itself a political party, and determining the advisability of becoming a candidate under the pre-candidacy financing provisions of this chapter.

(37) "Targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the Legislature and which can be received by 140,000 or more individuals in the state in the case of a candidacy for statewide office, 8,220 or more individuals in the district in the case of a candidacy for the State Senate, and 2,410 or more individuals in the district in the case of a candidacy for the House of Delegates.

WV Legislature

(38) "Telephone bank" means telephone calls that are targeted to the relevant electorate, other than telephone calls made by volunteer workers, regardless of whether paid professionals designed the telephone bank system, developed calling instructions, or trained volunteers.

(39) "Unaffiliated political action committee" means a political action committee that is not affiliated with a corporation or a membership organization.

WV Legislature

§3-8-2. Requirements for reporting independent expenditures.

(a) In addition to any other reporting required by the provisions of this chapter, any person who makes independent expenditures in an aggregate amount or value in excess of $1,000 during a calendar year shall file a disclosure statement, according to the requirements of §3-8-5 of this code, that contains all of the following information:

(1) The name of the person making the expenditure;

(2) The name of any person sharing or exercising direction or control over the activities of the person making the expenditure;

(3) The name of the custodian of the books and accounts of the person making the expenditure;

(4) If the person making the expenditure is an entity, the principal place of business of the partnership, corporation, committee, association, organization, or group which made the expenditure;

(5) The amount of each independent expenditure during the period covered by the statement and the name of the person to whom the expenditure was made;

(6) The elections to which the independent expenditure pertains, the names, if known, of the candidates referred to or to be referred to therein, whether the expenditure is intended to support or oppose the identified candidates, and the amount of the total expenditure reported pursuant to subdivision (5) of this subsection spent to support or oppose each of the identified candidates;

(7) The name and address of any person who contributed a total of more than $1,000 between the first day of the preceding calendar year, and the disclosure date, and whose contributions were made for the purpose of furthering the expenditure;

(8) With regard to the contributors required to be listed pursuant to subdivision (7) of this subsection the statement shall also include:

(A) The month, day, and year that the contributions of any single contributor exceeded $1,000;

(B) If the contributor is a political action committee, the name and address the political action committee registered with the Secretary of State, county clerk, or municipal clerk;

(C) If the contributor is an individual, the name and address of the individual, his or her occupation, the name and address of the individual’s current employer, if any, or, if the individual is self-employed, the name and address of the individual’s business, if any;

(D) A description of the contribution, if other than money; and

WV Legislature

(E) The value in dollars and cents of the contribution; and

(9) A certification that such independent expenditure was not made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

(b) Any person who makes a contribution for the purpose of funding an independent expenditure under this subsection shall, at the time the contribution is made, provide his or her name, address, occupation, his or her current employer, if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient of the contribution.

(c) The Secretary of State shall expeditiously prepare indices setting forth, on a candidate-by-candidate basis, all independent expenditures separately, made by, on behalf of, for, or against each candidate, as reported under this subsection, and shall periodically publish such indices on a timely pre-election basis.

(d)(1) Any person or political committee that makes or contracts to make independent expenditures aggregating $5,000 or more for any statewide, legislative, or multicounty judicial candidate, or $500 or more for any county office candidate, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, after the 15th day, but more than 12 hours before the date of an election, shall file a report on a form prescribed by the Secretary of State describing the expenditures within 24 hours: *Provided*, That a person making expenditures for any statewide or legislative candidate on or after the 15th day, but more than 12 hours before the day of any election meeting the criteria of this section, but which are subject to the disclosure requirements of §3-8-2b of this code, shall report such expenditures in accordance with the requirements of §3-8-2b of this code and may not file the report otherwise required by this subsection.

(2) Any person who files a report under subdivision (1) of this subsection shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $5,000 or more for any statewide, legislative, or multicounty judicial candidate, or $500 with respect to the same election, for any county office, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, as that to which the initial report relates.

(e)(1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating $10,000 or more at any time, up to and including the 15th day before the date of an election, shall file a report on a form prescribed by the Secretary of State describing the expenditures within 48 hours.

(2) Any person who files a report under subdivision (1) of this subsection shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same

WV Legislature

election as that to which the initial report relates.

(f) Any communication paid for by an independent expenditure must include a clear and conspicuous public notice that:

(1) Clearly states that the communication is not authorized by the candidate or the candidate's committee; and

(2) Clearly identifies the person making the expenditure: *Provided*, That if the communication appears on or is disseminated by broadcast, cable or satellite transmission, the statement required by this subsection must be both spoken clearly and appear in clearly readable writing at the end of the communication.

(g) Any person who has spent a total of $5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications during any calendar year shall maintain all financial records and receipts related to such expenditure for a period of five years following the filing of a disclosure pursuant to §3-8-2b of this code and, upon request, shall make such records and receipts available to the Secretary of State or county clerk for the purpose of an audit as provided in §3-8-7 of this code.

(h) Any person who willfully fails to comply with this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500, or confined in jail for not more than one year, or both fined and confined.

(i)(1) Any person or political committee who is required to file a statement under this section shall file the statement electronically in accordance with rules promulgated by the Secretary of State.

(2) The Secretary of State shall make any document filed electronically, pursuant to this subsection, accessible to the public on the Internet not later than 24 hours after the document is received by the secretary.

(3) In promulgating a rule under this subsection, the secretary shall provide methods, other than requiring a signature on the document being filed, for verifying the documents covered by the rule. Any document verified by such methods shall be treated for all purposes, including penalties for perjury, in the same manner as a document verified by signature.

(j) This section does not apply to candidates for federal office.

(k) The Secretary of State may propose emergency and legislative rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code.

WV Legislature

§3-8-2a. Detailed accounts and verified financial statements for certain inaugural events; limitations; reporting requirements.

(a) For purposes of this section:

(1) "Inaugural committee" includes any person, organization or group of persons soliciting or receiving contributions for the purpose of funding an inaugural event for a person elected to a statewide public office; and

(2) "Inaugural event" means any event or events held between the general election of a person elected to a statewide public office and ninety days after the general election, whether the event is sponsored by the inaugural committee or the state political party committee representing the party of the person elected and for which the person elected is a prominent participant or for which solicitations of contributions include the name of the person elected in prominent display.

(b) Any inaugural committee soliciting or receiving contributions for the funding of all or any part of an inaugural event for any person elected to a statewide office that receives an individual contribution in excess of $250 for any such event shall file and retain detailed records of any such contribution.

(c) No person may contribute more than $5,000 for any inaugural event. For purposes of this section, "contribution" does not include volunteer personal services but does include in-kind contributions of materials or supplies.

(d) Any inaugural committee, financial agent or any person or officer acting on behalf of such committee which is subject to the provisions of this section shall file a verified financial statement with the Secretary of State on a form prescribed by the state Election Commission within ninety days of the event. The financial statement shall contain information as may be required by the provisions of this section relating to any contribution in excess of $250. The Secretary of State shall file and retain such statements as public records for a period of not less than six years.

(e) In addition to any other information required by the state Election Commission, the report of contributions required by the provisions of this section shall include the methodology of the fund raising, the nature of the expenditures made and the names, addresses and amounts paid to any person.

(f) Amounts received by an inaugural committee for any person elected to a statewide public office in excess of the amount expended for an inaugural event may be contributed to any educational, cultural or charitable organization, or to the Governor's Mansion Fund created in section two, article four, chapter five-a of this code. The inaugural committee shall, within sixty days after filing the report required by subsection (d) of this section, expend any excess moneys and report, on a form prescribed by the Secretary of State, any amounts contributed to the Governor's Mansion Fund, any amounts contributed to educational, cultural or

WV Legislature

charitable organizations and the names of the organizations to which such excess moneys were contributed. The Secretary of State shall file and retain such records as public records for a period of not less than six years.

WV Legislature

§3-8-2b. Disclosure of electioneering communication.

(a) Every person who has spent:

(1) A total of $5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications during any calendar year; or

(2) A total of $1,000 or more on or after the 15th day, but more than 12 hours before the day of any election, for the direct costs of purchasing, producing, or disseminating electioneering communications during any calendar year shall, within 24 hours of each disclosure date, file with the Secretary of State a statement which contains all of the information listed in subsection (b) of this section.

(b) A person required, by subsection (a) of this section, to file a statement with the Secretary of State shall provide the following information:

(1) The name of the person making the expenditure, the name of any person sharing or exercising direction or control over the activities of the person making the expenditure, and the name of the custodian of the books and accounts of the person making the expenditure;

(2) If the person making the expenditure is not an individual, the principal place of business of the partnership, committee, association, organization or group which made the expenditure;

(3) The amount of each expenditure of more than $1,000 made for electioneering communications during the period covered by the statement and the name of the person to whom the expenditure was made;

(4) The elections to which the electioneering communications pertain, the names, if known, of the candidates referred to or to be referred to therein, whether the electioneering communication is intended to support or oppose the identified candidates, and the amount of the total expenditure reported in subdivision (3) of this subsection spent to support or oppose each of the identified candidates; and

(5) The names and addresses of any contributors who contributed a total of more than $1,000 between the first day of the preceding calendar year and the disclosure date, and whose contributions were made for the purpose of furthering the electioneering communications.

(c) With regard to the contributors required to be listed pursuant to subdivision (5), subsection (b) of this section, the statement shall also include:

(1) The month, day, and year that the contributions of any single contributor exceeded $1,000;

(2) If the contributor is a political action committee, the name and address the political

WVLegislature

action committee registered with the State Election Commission;

(3) If the contributor is an individual, the name and address of the individual, his or her occupation, the name and address of the individual's current employer, if any, or, if the individual is self-employed, the name and address of the individual's business, if any;

(4) A description of the contribution, if other than money;

(5) The value in dollars and cents of the contribution.

(d)(1) Any person who makes a contribution for the purpose of funding the direct costs of purchasing, producing or disseminating an electioneering communication under this section shall, at the time the contribution is made, provide his or her name and address to the recipient of the contribution;

(2) Any individual who makes contributions totaling $1,000 or more between the first day of the preceding calendar year and the disclosure date for the purpose of funding the direct costs of purchasing, producing or disseminating electioneering communications shall, at the time the contribution is made, provide the name of his or her occupation and of his or her current employer, if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient of the contribution.

(e) In each electioneering communication, a statement shall appear or be presented in a clear and conspicuous manner that:

(1) Clearly indicates that the electioneering communication is not authorized by the candidate or the candidate's committee; and

(2) Clearly identifies the person making the expenditure for the electioneering communication: *Provided*, That if the electioneering communication appears on or is disseminated by broadcast, cable, or satellite transmission, the statement required by this subsection shall be both spoken clearly and appear in clearly readable writing at the end of the communication.

(f) Within five business days after receiving a disclosure of electioneering communications statement pursuant to this section, the Secretary of State shall make information in the statement available to the public through the Internet.

(g) For the purposes of this section, a person is considered to have made an expenditure when the person has entered into a contract to make the expenditure at a future time.

(h) The Secretary of State shall propose emergency and legislative rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code.

(i) If any person, including, but not limited to, a political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any

www.Legislature

expenditure for electioneering communications which is coordinated with and made with the cooperation, consent or prior knowledge of a candidate, candidate's committee, or agent of a candidate, the expenditure shall be treated as a contribution and expenditure by the candidate. If the expenditure is coordinated with and made with the cooperation or consent of a state or local political party or committee, agent or official of that party, the expenditure shall be treated as a contribution to and expenditure by the candidate's party.

(j) This section does not apply to candidates for federal office. This section is not intended to restrict or to expand any limitations on, obligations of, or prohibitions against any candidate, committee, agent, contributor, or contribution contained in any other provision of this chapter.

WV Legislature

§3-8-2c. Party headquarters committee; detailed accounts and verified financial statements; funding for headquarters; limitations; reporting requirements.

(a) Notwithstanding the definitions contained in section one-a of this article, for purposes of this section:

(1) "Contribution" means a gift, subscription, loan, 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 funding the rental, purchase, construction or financing of the lease, purchase or construction of a party headquarters, and for the utilities, maintenance, furniture, fixtures, and equipment for the party headquarters. 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.

(2) "Party headquarters" means a physical structure or structures that is the physical location of the office of a state executive committee of a political party.

(3) "Party headquarters committee" includes any person, organization or group of persons soliciting or receiving contributions for the purpose of funding the lease, purchase, construction or financing of the lease, purchase, or construction of a party headquarters, including utilities, maintenance, furniture, fixtures, and equipment for the party headquarters, or for a county executive committee's headquarters.

(4) "County executive committee" means the executive committee of a political party, as defined by §3-1-8 of this code, which is situate in, and responsible for, the conduct of that party's business in one of the constituent counties of the state.

(b) A political party, or a county executive committee of a political party, may establish a party headquarters committee to solicit and receive contributions for the exclusive purpose of the purchase, construction or lease of an office building or financing of the lease, purchase, or construction of a party headquarters, including utilities, maintenance, furniture, fixtures, and equipment, to be used as a state political party's headquarters, or, as a county executive committee's headquarters.

(c) Contributions received pursuant to this section may not be expended for:

(1) The purchase, construction or lease of satellite offices or other facilities;

(2) Utilities, maintenance, furniture, fixtures, equipment or signage for satellite offices or other facilities; or

(3) Political purposes.

WV Legislature

(d) A party headquarters committee may not accept contributions in excess of $10,000, in the aggregate, from any person for the purposes of this section.

(e) A party headquarters committee may not receive contributions or make expenditures for the purpose of funding the rental, purchase, construction, or financing of a state executive committee headquarters, or a county executive committee's headquarters, which are in excess of $1 million.

(f) (1) A party headquarters committee, financial agent, or any person or officer acting on behalf of the committee, that is subject to the provisions of this section, shall file a verified financial statement with the Secretary of State, on a form prescribed by the secretary, within 90 days of any contribution or expenditure in excess of $250.

(2) Each financial statement shall contain, but is not limited to, the following information:

(A) The name, residence and mailing address and telephone number of the party headquarters committee, financial agent, or any person or officer acting on behalf of the committee, who is filing the financial statement.

(B) The balance of cash, and any other sum of money, on hand at the beginning and the end of the period covered by the financial statement.

(C) The name of any person making a contribution, the amount of the contribution, and the residence and mailing address of the contributor.

(D) The total amount of contributions received during the period covered by the financial statement.

(E) The name, residence and mailing address of any individual or the name and mailing address of each lending institution making a loan, the amount of any loan received, the date and terms of the loan, including the interest and repayment schedule, and a copy of the loan agreement.

(F) The name, residence, and mailing address of any individual, or the name and mailing address of each partnership, firm, association, committee, organization, or group having previously made or cosigned a loan for which payment is made or a balance is outstanding at the end of the period, together with the amount of repayment on the loan made during the period and the balance at the end of the period.

(G) The total outstanding balance of all loans at the end of the period.

(H) The name, residence, and mailing address of any person to whom each expenditure was made, or liability incurred, together with the amount and purpose of each expenditure or liability incurred, and the date of each transaction.

(I) The total amount of expenditures made during the period covered by the financial

WV Legislature

statement.

(3) The Secretary of State shall file and retain the statements as public records for not less than six years.

(g) Contributions received by a party headquarters committee may be contributed to any educational, cultural, or charitable organization.

(h) The Secretary of State shall propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code to effectuate the provisions of this section.

WV Legislature

§3-8-3. Committee treasurers; required to receive and disburse funds.

Every political committee shall appoint and retain a treasurer to receive, keep and disburse all sums of money which may be collected or received by such committee, or by any of its members, for election expenses, and, unless such treasurer is first appointed and thereafter retained, it shall be unlawful for any such committee or any of its members to collect, receive or disburse money for any such purposes. All moneys collected or received by any such committee, or by any of its members, for election expenses shall be paid over to, and pass through the hands of, the treasurer, and shall be disbursed by him, and it shall be unlawful for any such committee, or any of its members, to disburse any money for election expenses unless such money shall be paid to, and disbursed by, the treasurer. The same person may be designated to act as treasurer for two or more political party committees.

WV Legislature

§3-8-4. Treasurers and financial agents; written designation requirements.

(a) No person may act as the treasurer of any political action committee or political party committee supporting, aiding, or opposing the nomination, election, or defeat of any candidate for an office encompassing an election district larger than a county unless a written statement of organization, on a form to be prescribed by the Secretary of State, is filed with the Secretary of State. A change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.

(b) No person may act as the treasurer for any candidate committee for a candidate for any office encompassing an election district larger than a county, any legislative office, or any circuit judgeship unless a written statement of organization designating that person as the treasurer or financial agent is filed with the Secretary of State. A change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.

(c) No person may act as treasurer of any political committee advocating for candidates to be nominated or elected by the voters of a county or a district therein, except legislative and circuit judge candidates, unless a written statement of organization designating him or her as the treasurer is filed with the clerk of the county commission or the Secretary of State. A change of treasurer may be made at any time by filing a written statement with the clerk of the county commission.

(d) Prior to engaging in any activity, a political committee shall file a statement of organization required by subsection (a) of this section. A statement of organization form required by this section shall be certified as accurate and true and signed by the treasurer and the chairman of the committee, and shall include the following information:

(1) The name of the political committee;

(2) The name of the treasurer;

(3) The mailing address, telephone number, and e-mail address of the committee;

(4) The mailing address, telephone number, and e-mail address of the treasurer, if different from the committee information;

(5) The name of the chairman of the committee;

(6) The affiliate organization, if any;

(7) The type of political committee, as determined by the description of types of committees included in the definitions of "political committee" and "political action committee" in §3-8-1a of this code; and

(8) Whether the committee will participate in statewide or local elections.

WV Legislature

(e) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a filing designating a treasurer for a state, county, or municipal political committee may be made any time before the committee either accepts or spends funds. Once a designation is made by a state, county, or municipal political committee, no additional designations are required under this section until a successor treasurer is designated.

(f) A state, county, or municipal political committee may terminate a designation made pursuant to this section by making a written request to terminate the designation on a form prescribed by the Secretary of State and by filing a report of financial information required in §3-8-5 of this code indicating that the political committee has no funds or debts remaining in the committee's account. This written request shall be filed with either the Secretary of State or the clerk of the county commission as provided by subsections (a), (b), and (c) of this section.

WV Legislature

§3-8-4a. Termination of political committees.

(a) A political committee may terminate by filing a written request, in accordance with the provisions of section four of this article, and by stating in the request that it will no longer receive any contributions or make any disbursements and that it has no outstanding debts or obligations. At such time, any excess funds of the committee may be transferred to a political committee established by the same candidate pursuant to the provisions of §3-8-4 or §3-8-5e of this code.

(b) The provisions of this section may not be construed to eliminate or limit the authority of the Secretary of State, in consultation with the State Election Commission, to establish procedures for: (1) The determination of insolvency with respect to any political committee; (2) the orderly liquidation of an insolvent political committee and the orderly application of its assets for the reduction of outstanding debts; and (3) the termination of an insolvent political committee after such liquidation and application of assets.

WV Legislature

§3-8-5. Detailed accounts and verified financial statements required.

(a) Record-keeping requirements. —

(1) Except for candidates for party committeeman and committeewoman, all candidates for nomination or election to state or local offices and all persons supporting, aiding, or opposing the nomination, election, or defeat of any such candidate shall keep, for a period of two years, records of receipts and expenditures which are made for political purposes.

(2) Every candidate or treasurer of every political committee shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, or liabilities incurred, by the candidate or political committee.

(3) A person that is not a political committee and makes independent expenditures or electioneering communications must keep detailed accounts of every sum of money or other thing of value received by him or her for the purpose of furthering any independent expenditure or electioneering communication and of all disbursements made for independent expenditures or electioneering communications.

(b) Financial reporting requirements. —

(1) Every person required to keep detailed accounts under subsection (a) of this section shall file a detailed, itemized sworn statement, as prescribed in §3-8-5a and §3-8-5b of this code, according to the following schedule:

(A) On April 1 of each year, the person shall file a statement of all financial transactions dating from January 1 to March 31 of the same year, to be filed within six days thereafter;

(B) On July 1 of each year, the person shall file a statement of all financial transactions dating from April 1 to June 30 of the same year, to be filed within six days thereafter;

(C) On October 1 of each year, the person shall file a statement of all financial transactions dating from July 1 to September 30 of the same year, to be filed within six days thereafter; and

(D) On January 1 of each year, the person shall file a statement of all financial transactions dating from October 1 to December 31 of the previous year, to be filed within six days thereafter.

(2) In addition to the statements required in subdivision (1) of this subsection, a candidate or candidate’s committee shall file detailed itemized sworn statements, as prescribed in §3-8-5a and §3-8-5b of this code, according to the following schedule:

(A) On the 15th day preceding the primary election in which a candidate is on the ballot, the candidate or committee shall file a statement of all financial transactions subsequent to the

WV Legislature

previous statement, if any, to be filed within four business days after the 15th day; and

(B) On the 15th day preceding the general election in which a candidate, including an official write-in candidate, is on the ballot, the candidate or committee shall file a statement of all financial transactions subsequent to the previous statement, if any, to be filed within four business days after the 15th day.

(c) A person required to file reports pursuant to 52 U.S.C. §30104 is exempt from the requirements of subsection (b) of this section but is not exempt from the state-level electioneering communication reports requirements in §3-8-2b of this code or the independent expenditure reporting requirements in §3-8-2 of this code.

(d) Every person who is qualified as an official write-in candidate for any elective office shall individually, or by candidate committee, comply with all of the applicable requirements of this section.

(e) Candidates for the office of conservation district supervisor elected pursuant to the provisions of §19-21A-1 et seq. of this code are required to file only the report required by paragraph (A), subdivision (2), subsection (b) of this section immediately prior to the applicable general election that is held concurrently with the state's primary election.

WV Legislature

§3-8-5a. Information required in financial statement.

(a) Each financial statement required by the provisions of this article, other than a disclosure of electioneering communications pursuant to §3-8-2b of this article, shall contain only the following information:

(1) The name, residence and mailing address and telephone number of each candidate, financial agent, treasurer, or person and the name, address, and telephone number of each association, organization, or committee filing a financial statement.

(2) The balance of cash and any other sum of money on hand at the beginning and the end of the period covered by the financial statement.

(3) The name of any person making a contribution and the amount of the contribution. If the total contributions of any one person in any one election cycle amount to more than $250, the residence and mailing address of the contributor and, if the contributor is an individual, his or her major business affiliation and occupation shall also be reported. A contribution totaling more than $50 of currency of the United States or currency of any foreign country by any one contributor is prohibited and a violation of §3-8-5d of this article.

(4) The total amount of contributions received during the period covered by the financial statement.

(5) The name, residence and mailing address of any individual or the name and mailing address of each lending institution making a loan or of the spouse cosigning a loan, as appropriate, the amount of any loan received, the date and terms of the loan, including the interest and repayment schedule, and a copy of the loan agreement.

(6) The name, residence, and mailing address of any individual or the name and mailing address of each partnership, firm, association, committee, organization, or group having previously made or cosigned a loan for which payment is made or a balance is outstanding at the end of the period, together with the amount of repayment on the loan made during the period and the balance at the end of the period.

(7) The total outstanding balance of all loans at the end of the period.

(8) The name, residence, and mailing address of any person to whom each expenditure was made or liability incurred, including expenditures made on behalf of a candidate or political committee that otherwise are not made directly by the candidate or political committee, together with the amount and purpose of each expenditure or liability incurred and the date of each transaction.

(9) The total expenditure for the nomination, election, or defeat of a candidate or any person supporting, aiding, or opposing the nomination, election, or defeat of any candidate in whose behalf an expenditure was made or a contribution was given for the primary or other election.

WV Legislature

(10) The total amount of expenditures made during the period covered by the financial statement.

(b) Any unexpended balance at the time of making the financial statements herein provided for shall be properly accounted for in that financial statement and shall appear as a beginning balance in the next financial statement.

(c) Each financial statement required by this section shall contain a separate section setting forth the following information for each fund-raising event held during the period covered by the financial statement:

(1) The type of event, date held, and address and name, if any, of the place where the event was held.

(2) All of the information required by subdivision (3), subsection (a) of this section.

(3) The total of all moneys received at the fund-raising event.

(4) The expenditures incident to the fund-raising event.

(5) The net receipts of the fund-raising event.

(d) When any lump sum payment is made to any advertising agency or other disbursing person who does not file a report of detailed accounts and verified financial statements as required in this section, such lump sum expenditures shall be accounted for in the same manner as provided for herein.

(e) Any contribution or expenditure made by or on behalf of a candidate for public office, to any other candidate or committee for a candidate for any public office in the same election shall be accounted for in accordance with the provisions of this section.

(f) No person may make any contribution except from his, her, or its own funds, unless such person discloses in writing to the person required to report under this section the name, residence, mailing address, major business affiliation, and occupation of the person which furnished the funds to the contributor. All such disclosures shall be included in the statement required by this section.

(g) Any firm, association, committee, or fund permitted by §3-8-8 of this code to be a political committee shall disclose on the financial statement its corporate or other affiliation.

(h) No contribution may be made, directly or indirectly, in a fictitious name, anonymously or by one person through an agent, relative, or other person so as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment of the contributor's identity.

(i) No person may accept any contribution for the purpose of influencing the nomination,

WV Legislature

election, or defeat of a candidate or for the passage or defeat of any ballot issue unless the identity of the donor and the amount of the contribution is known and reported.

(j) When any person receives an anonymous contribution which cannot be returned because the donor cannot be identified, that contribution shall be donated to the General Revenue Fund of the state. Any anonymous contribution shall be recorded as such on the candidate's financial statement but may not be expended for election expenses. At the time of filing, the financial statement shall include a statement of distribution of anonymous contributions, which total amount shall equal the total of all anonymous contributions received during the period.

(k) Any membership organization which raises funds for political purposes by payroll deduction, assessing them as part of its membership dues or as a separate assessment, may report the amount raised as follows:

(1) If the portion of dues or assessments designated for political purposes equals $25 or less per member over the course of a calendar year, the total amount raised for political purposes through membership dues or assessments during the period is reported by showing the amount required to be paid by each member and the number of members.

(2) If the total payroll deduction for political purposes of each participating member equals $25 or less over the course of a calendar or fiscal year, as specified by the organization, the organization shall report the total amount received for political purposes through payroll deductions during the reporting period and, to the maximum extent possible, the amount of each yearly payroll deduction contribution level and the number of members contributing at each such specified level. The membership organization shall maintain records of the name and yearly payroll deduction amounts of each participating member.

(3) If any member contributes to the membership organization through individual voluntary contributions by means other than payroll deduction, membership dues, or assessments as provided in this subsection, the reporting requirements of subdivision (3), subsection (a) of this section shall apply. Funds raised for political purposes must be segregated from the funds for other purposes and listed in its report.

(l) Notwithstanding the provisions of §3-8-5 of this code or of the provisions of this section to the contrary, an alternative reporting procedure may be followed by a political party committee in filing financial reports for fund-raising events if the total profit does not exceed $5,000 per year. A political party committee may report gross receipts for the sale of food, beverages, services, novelty items, raffle tickets, or memorabilia, except that any receipt of more than $50 from an individual or organization shall be reported as a contribution. A political party committee using this alternative method of reporting shall report:

(i) The name of the committee;

(ii) The type of fund-raising activity undertaken;

WV Legislature

(iii) The location where the activity occurred;

(iv) The date of the fundraiser;

(v) The name of any individual who contributed more than $50 worth of items to be sold;

(vi) The name and amount received from any person or organization purchasing more than $50 worth of food, beverages, services, novelty items, raffle tickets, or memorabilia;

(vii) The gross receipts of the fundraiser; and

(viii) The date, amount, purpose, and name and address of each person or organization from whom items with a fair market value of more than $50 were purchased for resale.

(m) All financial statements filed after January 1, 2027, in any municipal, county, or other non-statewide election shall be filed with Secretary of State's Office.

WV Legislature

§3-8-5b. Where financial statements and reports shall be filed; filing date prescribed.

(a) The financial statements provided for in this article shall be filed, by or on behalf of candidates, with:

(1) The Secretary of State for legislative offices, circuit judge, and family court judge, and for statewide and other offices to be nominated or elected by the voters of a political division greater than a county;

(2) The clerk of the county commission by candidates for offices to be nominated or elected by the voters of a single county or a political division within a single county, except circuit judge and family court judge; or

(3) The proper municipal officer by candidates for office to be nominated or elected to municipal office.

(b)(1) The following statements or reports shall be filed electronically, in a manner prescribed by the Secretary of State:

(A) Financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture, State Senate, House of Delegates, Supreme Court of Appeals, circuit judge, or family court judge;

(B) Financial statements filed by political committees;

(C) Electioneering communication reports; and

(D) Independent expenditure reports.

(2) If through or by no fault of the candidate the candidate is unable to file the campaign financial statement, the candidate shall then file said statement in person, via facsimile or other electronic means of transmission, or by certified mail postmarked at the first reasonable opportunity.

(3) Committees required to report electronically may apply to the State Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.

(c) Candidates for all offices not identified in subsection (b) of this section may file financial statements by mail, in person, by facsimile, or by other electronic means of transmission. For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of the United States Postal Service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State, or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during

WV Legislature

regular business hours of that office.

(d) The sworn financial statements required to be filed by this section with the Secretary of State shall be posted on the Internet by the Secretary of State within 10 business days from the date the financial statement is filed.

WV Legislature

§3-8-5c. Contribution limitations.

(a)(1) A person, political party, or political action committee may not, in an election cycle:

(A) Contribute more than $2,800, directly or indirectly, to a candidate's committee for a candidate seeking nomination, including by making contributions to the candidate's committee; or

(B) Contribute more than $2,800, directly or indirectly, to a candidate's committee for a candidate seeking election, including by making contributions to the candidate's committee: Provided, That a candidate may receive contributions for the general election prior to nomination, however, such funds may not be expended until after the date of the nomination is declared.

(2) The contribution limits of this section apply only to elections to be held after the effective date of this section and do not apply to candidate committees that were created for elections held prior to the effective date of this section.

(b) A person, except candidate committees and caucus campaign committees, may not, directly or indirectly, make contributions to a state party executive committee, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee which, in the aggregate, exceed $10,000 in any calendar year: *Provided*, That a person may not earmark or otherwise designate any portion of a contribution made pursuant to this subsection to be used to support or oppose the election of a particular candidate: *Provided, however*, That any such designation or earmark that accompanies a contribution made pursuant to this subsection may not be binding on the entity that receives the contribution.

(c) A person may not, directly or indirectly, make contributions to a political action committee, related to a particular election, which, in the aggregate, exceed $5,000.

(d) Candidate committees and caucus campaign committees may make contributions to their affiliated state party executive committees, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee up to $75,000.

(e) The amendments to this section enacted during the regular session of the Legislature, 2022, shall not be effective until November 9, 2022.

WV Legislature

§3-8-5d. Offenses and penalties.

(a) Any person who makes or receives a contribution of currency of the United States or currency of any foreign country of more than $50 in value is guilty of a misdemeanor, and, upon conviction, shall be fined a sum equal to three times the amount of the contribution.

(b) Notwithstanding any provision of section twenty-four, article nine of this chapter to the contrary, a criminal prosecution or civil action for a violation of this article may be commenced within five years after the violation occurred.

(c) No person required to report under this article shall be found in violation of this article if any person, firm, association or committee making a contribution has provided false information to such person: Provided, That any person, firm, association or committee who provides false information to a person required to report under this article is guilty of a misdemeanor and, subject to the penalties provided in section twenty-three, article nine of this chapter.

WV Legislature

§3-8-5e. Pre-candidacy financing and expenditures.

(a) Notwithstanding any other provisions of this code, it is lawful for a person, otherwise qualified to be a candidate for any public office or position to be determined by public election, to receive contributions or make expenditures, or both personally or by another individual acting as a treasurer, to determine the advisability of becoming such a candidate or preparing to be such a candidate: *Provided*, That an individual may file his or her pre-candidacy papers, and may receive contributions and make expenditures related thereto, beginning on the day after the general election is held for the term of office immediately preceding the term of office for which the person may become a candidate, if such term of office is four years or less: *Provided, however*, That such pre-candidacy papers may be filed, such contributions may be received, and such expenditures may be made only during the four years immediately preceding the term of office for which such person may be a candidate, if such term of office is more than four years: *Provided further*, That no person is disqualified from receiving contributions or making expenditures as permitted under the provisions of this section solely because such person then holds a public office or position.

(b) Any person undertaking to determine the advisability of becoming or preparing to be a candidate, who desires to receive contributions before filing a certificate of candidacy, shall designate himself or another individual to act as a treasurer and shall file a designation of treasurer in the manner provided in §3-8-4 of this code before receiving any contributions permitted by this section. Any expenditures made before the filing of a designation of treasurer shall be reported in accordance with the provisions of §3-8-5 of this code regardless of the source of funds used for such expenditures.

(c) A person who receives a contribution who is acting for and by himself or herself or as treasurer or agent for another pursuant to the provisions of this section shall keep detailed accounts of every sum of money or other thing of value received by him or her, and of all expenditures and disbursements made, and liabilities incurred, in the same manner as such accounts are required by §3-8-5 of this code.

(d) Regardless of whether such person becomes a candidate as originally intended, becomes a candidate for some office other than the office or position originally intended, or does not become a candidate, all limits on campaign contributions and campaign expenditures applicable to the candidacy of or advocacy of the candidacy of such person for the office he or she actually seeks shall be applicable to and inclusive of the receipts had and expenditures made during such pre-candidacy period as well as after the person becomes a candidate.

WV Legislature

§3-8-5f. Loans to candidates, organizations or persons for election purposes.

(a) No candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may receive any money or any other thing of value as a loan toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed.

(b) Loans may only be made in the regular course of business by a lending institution which is a state bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits are insured by the federal deposit insurance corporation or the national credit union administration. Such loans shall be subject to the following requirements:

(1) Endorsements or guarantees of such loans may be made by the candidate or his or her spouse;

(2) Endorsements or guarantees of such loans by parties other than the candidate or his or her spouse may be made only to the extent of the contribution limits established in this article; and

(3) No other form of security shall be furnished in connection with such loans by any party other than the candidate or his or her spouse.

(c) The provisions of this section shall not be construed to prohibit a candidate or his or her spouse from lending money to the candidate or to the candidate's political committee: Provided, That the spouse of a candidate may not borrow money from a third party other than a lending institution authorized to make loans under this section for the purposes of lending money to the candidate or the candidate's political committee.

WV Legislature

§3-8-5g. Prohibition on political contributions and expenditures by foreign nationals.

(a) A foreign national may not, directly or indirectly, make:

(1) A contribution or donation, or an express or implied promise to make a contribution or donation, to a candidate's committee, a political committee, or a political party; or

(2) An independent expenditure or any disbursement for an electioneering communication related to a state or local election.

(b) A person may not solicit, accept, or receive a contribution or donation described in subsection (a) of this section.

WV Legislature

§3-8-6. Financial statement forms; filing; disposition.

Blank forms for all financial statements required under this article shall be provided by the state election commission. The content of the forms shall be as prescribed by legislative rule promulgated in accordance with the provisions of chapter twenty-nine-a of this code. Pending legislative approval of such legislative rule, the state election commission may by emergency rule prescribe the contents of the forms. Copies thereof, together with a copy of this article, shall be furnished through the county clerk or otherwise, as the Secretary of State may deem expedient, to all treasurers of political committees, to all political financial agents, and to all candidates for nomination or election to any office, upon the filing of a petition or announcement for nomination, and to all other persons required by law to file such statements who shall apply therefor. The form shall also be furnished, at a nominal cost, on computer disc or magnetic media. All statements filed in accordance with the provisions of this article shall be received, endorsed and filed by the Secretary of State and county clerks, and shall be preserved for five years, after which time they may be destroyed, if not required to be further preserved by the order of any court.

WV Legislature

§3-8-6a. Financial statement forms; filing; disposition.

(a) For each financial statement required by the provisions of this article, the following information may not be made publicly available in any manner, including, but not limited to, disclosure on any governmental websites or in response to public records requests under the West Virginia Freedom of Information Act, §29B-1-1 *et. seq.* of this code:

(1) The street number and street name in the residence and mailing address of any individual who makes a contribution, or who makes or cosigns a loan;

(2) The major business affiliation of that individual; and

(3) The street number and street name in the residence and mailing address of the treasurer.

(b) Notwithstanding the provisions of subsection (a) of this section, the information protected from disclosure by subsection (a) of this section may be disclosed or released to a government entity for any purposes authorized by federal law, a provision of this code, or a legislative rule promulgated pursuant to the provisions of §29A-1-1 *et seq.* of this code.

(c) The effective date of the requirements of subsection (a) of this section is January 1, 2027, and the requirements of subsection (a) of this section do not apply to financial statements submitted before January 1, 2027.

WV Legislature

§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.

(a) Any person, candidate, financial agent, or treasurer of a political committee who fails to file a sworn, itemized statement required by this article within the time limitations specified in this article or who willfully files a grossly incomplete or grossly inaccurate statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 or confined in jail for not more than one year, or both fined and confined. Sixty days after any primary or other election, the Secretary of State, county clerk, or municipal recorder, as the case may be, shall give notice of any failure to file a sworn statement or the filing of any grossly incomplete or grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political party committee and forward copies of any grossly incomplete or grossly inaccurate statement to the prosecuting attorney of the county where the person, candidate, financial agent, or treasurer resides, is located, or has its principal place of business.

(b) (1) Any person, candidate, financial agent, or treasurer of a political committee who fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete or grossly inaccurate statement shall be assessed a civil penalty by the Secretary of State of $10 a day for each day after the due date the statement is delinquent, grossly incomplete, or grossly inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete, or grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political committee and forward copies of such delinquent, incomplete, or inaccurate statements to the Secretary of State.

(2) A civil penalty assessed pursuant to this section shall be payable to the State of West Virginia and is collectable as authorized by law for the collection of debts.

(3) The Secretary of State may negotiate and enter into settlement agreements for the payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete, or inaccurate statement.

(4) The Secretary of State shall publish online a list of all persons required to file statements with the Secretary of State who file statements after the deadline in an election cycle. This list shall be maintained and be publicly available online to include late activity for, at a minimum, the previous five years up to the current year.

(5) The Secretary of State and county clerk may review and audit any sworn statement required to be filed pursuant to this article. The State Election Commission shall propose legislative rules for promulgation, in accordance with §29A-3-1 et seq. of this code, to establish procedures for the assessment of civil penalties as provided in this section.

(c) (1) Any candidate, whether nominated by primary election or appointed by executive committee or executive committee chair, who has failed to file any sworn statement as

WV Legislature

required by this article relating to the immediately preceding primary election for any office by the 84th day before the general election, is disqualified and may not have his or her name appear on the general election ballot. The provisions of §3-8-5b(d) of this code notwithstanding, any sworn statement filed after the deadline required by §3-8-5 of this code must be received in the office indicated by §3-8-5b(a) of this code by the close of business on the 84th day before the general election.

(2) It is unlawful to issue a commission or certificate of election, or to administer the oath of office, to any person elected to any public office who has failed to file any sworn statement required by this article and no person may enter upon the duties of his or her office until he or she has filed such statement, nor may he or she receive any salary or emolument for any period prior to the filing of the statement.

(3) The vacancy on the ballot created by the disqualification in this subsection is subject to §3-5-19 of this code.

(d) As used in this section, "grossly" means substantive and material, and specifically includes false or misleading representations and acts of omissions.

(e) The Secretary of State shall provide by rule protocols for written notice via certified mail, return receipt requested, to the person, candidate, financial agent, or treasurer of a political party committee that is not in compliance with the requirements of this section. With respect to a violation of subsection (c) of this section, the notice shall be provided 60 days after any primary or other election.

WV Legislature

§3-8-8. Corporation contributions forbidden; exceptions; penalties; promulgation of rules; additional powers of State Election Commission.

(a) An officer, agent, or person acting on behalf of any membership organization or any corporation, whether incorporated under the laws of this or any other state or of a foreign country, may not pay, give, lend, or authorize to be paid, any money or other thing of value belonging to the corporation to any candidate or candidate's campaign committee for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

(b) A person may not solicit or receive any payment, contribution, or other thing from any membership organization or any corporation or from any officer, agent, or other person acting on behalf of the membership organization or corporation to any candidate or candidate's campaign committee for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

(c)(1) The provisions of this section do not prohibit a membership organization or corporation from soliciting, through any officer, agent, or person acting on behalf of the membership organization or corporation, contributions to a separate segregated fund to be used for political purposes. Any separate segregated fund is considered a political action committee for the purpose of this article and is subject to all reporting requirements applicable to political action committees.

(2) It is unlawful for:

(A) A membership organization, corporation, or separate segregated fund to make a primary or other election contribution or expenditure by using money or anything of value secured: (i) By physical force, job discrimination, or financial reprisal; (ii) by the threat of force, job discrimination, or financial reprisal; or (iii) as a condition of employment;

(B) Any person soliciting a membership organization member, stockholder, executive, or administrative personnel member or their family members for a contribution to a membership organization, corporation, or separate segregated fund to fail to inform the person solicited of the political purposes of the separate segregated fund at the time of the solicitation;

(C) Any person soliciting any other person for a contribution to a membership organization, corporation, or separate segregated fund to fail to inform the person solicited at the time of the solicitation of his or her right to refuse to contribute without any reprisal;

(D) A separate segregated fund established by a membership organization or a corporation: (i) To solicit contributions to the fund from any person other than the membership organization's members or the corporation's stockholders and their families, or its executive or administrative personnel and their families; or (ii) to contribute any membership organization or corporate funds;

WV Legislature

(E) A separate segregated fund established by a membership organization or corporation to receive contributions to the fund from any person other than the membership organization's members or corporation's stockholders and their immediate families and their executive or administrative personnel and their immediate families;

(F) A membership organization or corporation to engage in job discrimination or to discriminate in job promotion or transfer because of a member's or an employee's failure to make a contribution to the membership organization or corporation or a separate segregated fund;

(G) A separate segregated fund to make any contribution, directly or indirectly, in excess of the amounts permitted in §3-8-5c of this code in connection with or on behalf of any campaign for nomination or election to any elective office in the state or any of its subdivisions, or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any such office; or

(H) A membership organization or corporation to pay, give, or lend or to authorize payment, giving, or lending of any moneys or other things of value belonging to the membership organization or corporation to a separate segregated fund for the purpose of making a contribution to a candidate or a candidate's committee. This provision does not prohibit a separate segregated fund from using the property, real or personal, facilities, and equipment of a membership organization or corporation solely to establish, administer, and solicit contributions to the fund, subject to the rules of the State Election Commission as provided in subsection (e) of this section: Provided, That any such membership organization or corporation shall also permit any group of its employees represented by a bona fide political action committee to use the real property of the membership organization or corporation solely to establish, administer, and solicit contributions to the fund of the political action committee, subject to the rules of the State Election Commission promulgated in accordance with said subsection.

(3) For the purposes of this section, the term "executive or administrative personnel" means individuals employed by a membership organization or corporation who are paid on a salary rather than hourly basis and who have policy-making, managerial, professional, or supervisory responsibilities.

(d) Any person, membership organization, or corporation violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000. A membership organization or corporation may not reimburse any person the amount of any fine imposed pursuant to this section.

(e) To ensure uniform administration and application of the provisions of this section and of those of the Federal Election Campaign Act Amendments of 1976 relating to membership organization and corporate contributions, the State Election Commission shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement the

WV Legislature

provisions of this section consistent, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission to carry out similar or identical provisions of 52 U.S.C. §30118.

(f) In addition to the powers and duties set forth in §3-1A-1 et seq. of this code, the State Election Commission has the following powers and duties:

(1) To investigate, upon complaint or on its own initiative, any alleged violations or irregularities of this article.

(2) To administer oaths and affirmations, issue subpoenas for the attendance of witnesses, issue subpoenas duces tecum to compel the production of books, papers, records, and all other evidence necessary to any investigation.

(3) To involve the aid of any circuit court in the execution of its subpoena power.

(4) To report any alleged violations of this article to the appropriate prosecuting attorney having jurisdiction, which prosecuting attorney shall, upon determining that a reason to believe that a violation has occurred, present to the grand jury such alleged violations, together with all evidence relating thereto, no later than the next term of court after receiving the report.

(g) The Attorney General shall, when requested, provide legal and investigative assistance to the State Election Commission.

(h) Any investigation, either upon complaint or initiative, shall be conducted in an executive session of the State Election Commission and shall remain undisclosed except upon an indictment by a grand jury.

(i) Any person who discloses the fact of any complaint, investigation, or report or any part thereof, or any proceedings thereon, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000, nor more than $5,000, and shall be confined in jail not less than six months nor more than one year.

(j) The amendments to this section enacted during the second extraordinary session of the Legislature, 2008, are intended to conform to the existing proscription to constitutionally permissible limits and not to create a new offense or offenses.

WV Legislature

§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.

(a) No financial agent or treasurer of a political committee may pay, give, or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

(1) For rent, maintenance, office equipment, and other furnishing of offices to be used as political headquarters and for the payment of necessary employees;

(2) In the case of a candidate who does not maintain a headquarters, for reasonable office expenses, including, but not limited to, filing cabinets and other office equipment, and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment, the rental of the use of the same, or for the payment for the shared use of same with the candidate's business and for the payment of necessary employees;

(3) For printing and distributing books, pamphlets, circulars, and other printed matter, radio and television broadcasting, and painting, printing, and posting signs, banners, and other advertisements, including contributions to charitable, educational, or cultural events, for the promotion of the candidate or the candidate's name, or an issue on the ballot;

(4) For renting and decorating halls for public meetings and political conventions, for advertising public meetings, and for the payment of traveling expenses of speakers and musicians at such meetings;

(5) For the necessary traveling and hotel expenses of candidates, political agents, and committees and for stationery, postage, telegrams, telephone, express, freight, and public messenger service;

(6) For preparing, circulating, and filing petitions for nomination of candidates;

(7) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the persons listed therein, and conducting proceedings to prevent unlawful registration or voting;

(8) For conveying voters to and from the polls;

(9) For securing publication in newspapers and by radio and television broadcasting of documents, articles, speeches, arguments, and any information relating to any political issue, candidate, or question or proposition submitted to a vote;

(10) For conducting public opinion poll or polls. For the purpose of this section, the phrase "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection, collation, and evaluation of information reflecting public opinion, needs, and

WV Legislature

preferences as to any candidate, group of candidates, party, issue, or issues. No such poll may be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition, or other matter to be voted on by the public at any election: *Provided*, That nothing herein may prevent the use of the results of any such poll or polls to further, promote or enhance the election of any candidate or group of candidates or the approval or defeat of any proposition or other matter to be voted on by the public at any election;

(11) For legitimate advertising agency services, including commissions, in connection with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7), (9), and (10) of this subsection;

(12) For the purchase of memorials, flowers, or citations by political party executive committees or political action committees representing a political party;

(13) For the purchase of nominal noncash expressions of appreciation following the close of the polls of an election or within 30 days thereafter;

(14) For the payment of dues or subscriptions to any national, state, or local committee of any political party;

(15) For contributions to a county party executive committee, state party executive committee, or a caucus campaign committee;

(16) For transfers to any national, state, or local committee of any political party when that committee is acting in the role of a vendor: *Provided*, That no such transfer may involve any coordination between the candidate and the political party committee without being considered as a contribution;

(17) For payment for legal and accounting services rendered to a candidate or candidate committee if the services are solely related to the candidacy or campaign;

(18) For payment for food and drink for campaign-related purposes;

(19) For the payment of any required filing fees associated with the campaign, except that a candidate may not pay any fines assessed against the candidate or the candidate's committee pursuant to this article;

(20) For contributions to a candidate committee: *Provided*, That a candidate committee may not contribute to another candidate committee except as otherwise provided by §3-8-10 of this code; and

(21) For expenses related to caregiving services.

(b) A political action committee may not contribute to another political action committee or

WV Legislature

receive contributions from another political action committee: *Provided*, That a political action committee may receive contributions from its national affiliate, if any.

(c) Every liability incurred, and payment made shall be for the fair market value of the services rendered.

(d) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by §3-8-5a of this code, the financial statements required by §3-8-5 of this code at the times required therein and include therein, in itemized detail, all receipts from and expenditures made on behalf of a candidate, financial agent, or treasurer of a political party committee.

(e) Any candidate may designate a financial agent by a writing duly subscribed by the candidate which shall be in such form and filed in accordance with §3-8-4 of this code.

WV Legislature

§3-8-9a. Coordinated expenditures.

(a) Except as provided in §3-8-9b of this code, a coordinated expenditure is considered to be a contribution and is subject to all requirements for contributions contained in this article.

(b) An expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate's committee is a coordinated expenditure if the communication resulting from the expenditure is paid for, in whole or in part, by a person other than the candidate, candidate committee, or party committee, and one of the following circumstances exists:

(1) The communication is created, produced, distributed, or undertaken at the request or suggestion of a candidate, candidate committee, or party committee.

(2) The candidate, candidate committee, or party committee is involved in the creation, production, or distribution of the communication, or has had discussions about the communication with any person or the agents of a person who has paid for or played a role in the creation, production, or distribution of the communication: Provided, That this paragraph does not apply if the information or materials used in the creation, production, distribution, or undertaking of the communication was obtained from a publicly available source.

(3) Any person involved in the creation, production, or distribution of the communication has, in the four months preceding the date on which the expenditure is made, been an employee or vendor of campaign services for the candidate, candidate committee, or party committee.

(c) An expenditure is not a coordinated expenditure, based solely on any of the following circumstances:

(1) A candidate committee or a political party committee responds to an inquiry about the candidate's or political party committee's positions on legislative or policy issues, including substantive discussion of the legislative or policy issues, but not including a discussion of campaign plans, projects, activities, or needs;

(2) A candidate endorses another candidate;

(3) A candidate solicits funds for another candidate, a political committee, a party committee, or organizations eligible to receive tax-deductible donations under 26 U. S. C. §170 (or any successor provision) and regulations of the U. S. Department of Treasury; or

(4) A candidate is clearly identified only in his or her capacity as the owner or operator of a business that existed prior to the candidacy, if the communication does not refer to an election or another candidate who seeks the same office as that candidate.

(d)(1) An expenditure otherwise meeting the description of a coordinated expenditure

WV Legislature

contained in subdivision (3), subsection (b) of this section, is not a coordinated expenditure if the commercial vendor, former employee, or political committee at issue has established and implemented a firewall that meets the following requirements:

(A) The firewall is designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for the communication and those employees or consultants currently or previously providing services to a candidate, or a committee supporting or opposing a candidate, clearly identified in the communication; and

(B) The firewall is described in a written policy that is distributed to all relevant employees, consultants, and clients affected by the policy.

(2) A communication does not qualify for the exemption contained in this subsection if, despite the firewall, information subject to the firewall concerning a candidate, candidate's committees, or a party committee's campaign plans, projects, activities, or needs that are material to the creation, production, or distribution of the communication is used or conveyed to the person paying for the communication.

(e) Any communication that results from a coordinated expenditure must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate, the candidate committee, or the party committee with which it was coordinated.

WV Legislature

§3-8-9b. Coordinated expenditures by political party committees and political party caucuses in connection with certain statewide candidates.

(a) Notwithstanding the provisions of §3-8-9a of this code, the state committee of a political party and caucus campaign committee may make coordinated expenditures in any amount with the general election campaign of the candidate for each of the following offices: Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate, and House of Delegates.

(b) Any communication that results from a political expenditure and is made in coordination with a state committee of a political party and caucus campaign committee must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate or candidate's committee with whom it was coordinated.

(c) The amendments to this section enacted during the regular session of the Legislature, 2022, shall not be effective until November 9, 2022.

WV Legislature

§3-8-9c. Joint fundraising.

(a) Political committees may engage in joint fund-raising efforts with other political committees or with committees registered with the Federal Election Commission pursuant to a written joint fund-raising agreement.

(b) A written joint fund-raising agreement must be filed with the Secretary of State and must provide terms for the allocation of fund-raising proceeds between or among political committees engaging in the joint fund-raising effort. The Secretary of State shall post all joint fund-raising agreements on the Internet within 10 business days from the date the agreement is filed.

(c) Any person soliciting funds for a joint fund-raising effort shall disclose, in making or publishing solicitations, the name of all political committees involved in the joint fund-raising effort and how any proceeds, including any contributions, will be allocated between or among such committees.

(d) A person, not otherwise prohibited by this article from making contributions, may make a contribution to a joint fund-raising effort subject to the contribution limits in §3-8-5c of this code.

(e) The State Election Commission shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to provide requirements for written joint fund-raising agreements and to implement the provisions of this section consistently, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission in 11 C.F.R. §102.17.

WV Legislature

§3-8-10. Use of certain contributions.

(a) Notwithstanding any provision of this code to the contrary, amounts received by a candidate as contributions that are in excess of any amount necessary to defray his or her expenditures may be:

(1) Used by the candidate to defray any usual and customary expenses incurred in connection with his or her duties as a holder of public office; and

(2) Contributed by the candidate, after the general election, to:

(A) Any charitable organization or subsequent campaign by the same candidate, without limitation;

(B) Any national committee in accordance with federal requirements;

(C) Any state party executive committee or state party legislative caucus committee, in any amount; or

(D) Any local committee of any political party or any other candidate for public office, in accordance with the existing limitations on contributions.

(b) The State Election Commission shall promulgate emergency and legislative rules, in accordance with the provisions of §29A-1-1 *et seq*. of this code, to establish guidelines for the administration of this section.

(c) The amendments to this section enacted during the regular session of the Legislature, 2022, shall not be effective until November 9, 2022.

WV Legislature

§3-8-11. Specific acts forbidden; penalties.

(a) Any person who, directly or indirectly, by himself, or by any other person on his or her behalf, makes use of, or threatens to make use of, any force, violence or restraint, or inflict, or threatens to inflict, any damage, harm, or loss, upon or against any person, or by any other means attempt to intimidate or exert any undue influence, in order to induce that person to vote or refrain from voting, or on account of that person having voted or refrained from voting, at any election, or who, by abduction, duress or any fraudulent device or contrivance, impedes or prevents the free exercise of the suffrage by any elector, or thereby compels, induces, or prevails upon any elector either to vote or refrain from voting for or against any particular candidate or measure; or

(b) Any person who, being an employer, or acting for or on behalf of any employer, gives any notice or information to his or her employees, containing any threat, either express or implied, intended or calculated to influence the political view or actions of the workmen or employees; or

(c) Any person who, knowingly, makes or publishes, or causes to be made or published, any false statement in regard to any candidate, which statement is intended or tends to affect any voting at any election whatever; or

(d) Any person who pays any owner, publisher, editor or employee or any newspaper or other periodical, to advocate or oppose editorially, any candidate for nomination or election, or any political party, or any measure to be submitted to the vote of the people; or any owner, publisher, editor or employee, who solicits or accepts the payment is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $10,000, or confined in jail for not more than one year, or, in the discretion of the court, shall be subject to both such fine and imprisonment.

(e) Any individual whose street number and street name or major business affiliation is disclosed to the public in violation of §3-8-6a of this code, and any treasurer whose address is disclosed to the public in violation of §3-8-6a of this code, shall provide notice of the violation to the government agency or government entity responsible for the disclosure via certified mail addressed to the lead employee for the government agency or government entity. If the governmental agency or government entity fails to remove or redact the information within 10 business days of the receipt of the notice, the aggrieved individual may recover a civil penalty in the amount of $1,000 from the government agency or government entity responsible for each report on which that information is publicly disclosed.

(f) Any state or local officer or employee who knowingly and willfully discloses to the public an individual’s street number and street name or major business affiliation in violation of §3-8-6a of this code, or a treasurer's address in violation of §3-8-6a of this code, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail for not more than one year, or, in the discretion of the court, both fined and

WV Legislature

imprisoned.

WV Legislature

§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising; solicitation of contributions; intimidation and coercion of employees; promise of employment or other benefits; limitations on contributions; public contractors; penalty.

(a) A person may not publish, issue, or circulate, or cause to be published, issued, or circulated, any anonymous letter, circular, placard, radio or television advertisement, or other publication supporting or aiding the election or defeat of a clearly identified candidate.

(b) An owner, publisher, editor, or employee of a newspaper or other periodical may not insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends to influence the voting at any election, unless directly designating it as a paid advertisement and stating the name of the person authorizing its publication and the candidate in whose behalf it is published.

(c) A person may not, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision of the state, solicit orally or by written communication delivered within the room or building, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the state, or a political subdivision of the state. An officer, agent, clerk, or employee of the federal government, or of this state, or any political subdivision of the state, who may have charge or control of any building, office, or room, occupied for any official purpose, may not knowingly permit any person to enter any building, office, or room, occupied for any official purpose, for the purpose of soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision of the state.

(d) Except as provided in §3-8-8 of this code, a person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies, or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land, or buildings, directly or indirectly, make any contribution to any political party, committee, or candidate for public office, or to any person for political purposes or use nor may any person or firm solicit any contributions for any purpose during any period.

(e) A person may not, directly or indirectly, promise any employment, position, work, compensation, or other benefit provided for, or made possible, in whole or in part, by act of the Legislature, to any person as consideration, favor or reward for any political activity for the support of or opposition to any candidate, or any political party in any election.

WV Legislature

(f) A person may not, directly or indirectly, make any contribution in excess of the amounts permitted by §3-8-5c of this code, in connection with any campaign for nomination or election to or on behalf of any statewide office, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any of the offices.

(g) It is unlawful for any person to create, establish, or organize more than one political committee with the intent to avoid or evade the contribution limitations contained in this article.

(h) A person may not, directly or indirectly, make contributions to a state party executive committee or caucus campaign committee which, in the aggregate, are in excess of the amounts permitted by §3-8-5c of this code in any calendar year.

(i) The limitations on contributions contained in this section do not apply to transfers among a state party executive committee, a caucus campaign committee, and a national committee of the same political party: Provided, That the moneys transferred may only be used for voter registration and get-out-the-vote activities of the state committees.

(j) A person may not solicit any contribution, other than contributions to a campaign for or against a county or local government ballot issue, from any nonelective salaried employee of the state government or of any of its subdivisions: Provided, That in no event may any person acting in a supervisory role solicit a person who is a subordinate employee for any contribution. A person may not coerce or intimidate any nonelective salaried employee into making a contribution. A person may not coerce or intimidate any nonsalaried employee of the state government or any of its subdivisions into engaging in or refraining from any form of political activity. The provisions of this subsection may not be construed to prevent any employee from making a contribution or from engaging in political activity voluntarily without coercion, intimidation, or solicitation.

(k) A person may not solicit a contribution from any other person without informing the other person at the time of the solicitation of the amount of any commission, remuneration, or other compensation that the solicitor or any other person will receive or expect to receive as a direct result of the contribution being successfully collected. Nothing in this subsection may be construed to apply to solicitations of contributions made by any person serving as an unpaid volunteer.

(l) A person may not place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material or other printed or published item tending to influence voting at any election in a roadside receptacle unless it is: (1) Approved for placement into a roadside receptacle by the business or entity owning the receptacle; and (2) contains a written acknowledgment of the approval. This subdivision does not apply to any printed material contained in a newspaper or periodical published or distributed by the owner of the

WV Legislature

receptacle. The term "roadside receptacle" means any container placed by a newspaper or periodical business or entity to facilitate home or personal delivery of a designated newspaper or periodical to its customers.

(m) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail for not more than one year, or both fined and confined.

WV Legislature

§3-8-13. Parties liable and subject to penalties.

In all cases of violation of the provisions of this article by any partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing or controlling heads thereof, who knowingly and willingly participate in such violation, shall be subject to the penalties and punishments provided herein.

WV Legislature

§3-8-14. Effective date of certain criminal offenses.

The criminal offenses created in sections two, seven and twelve of this article by the provisions of Enrolled Committee Substitute for House Bill No. 402 during the fourth extraordinary session, two thousand five, shall be effective ninety days from passage.

WV Legislature

§3-8-15. Disclosure of contributions during legislative session.

(a) In addition to other reporting required under this article, any member, or any candidate committee for a member of the Legislature who is a candidate for legislative office, who has a fund-raising event while the Legislature is in session, shall disclose the existence of the event and the receipt of all contributions, including the source and amounts, within five business days after the fund-raising event.

(b) The reporting requirements under this section also apply to former candidates or candidate committees for legislative office who are still holding any legislative office and who use a fund-raising event to retire or pay-off debt of a campaign account while the Legislature is in session.

(c) The reporting requirements of this section do not relieve a candidate or candidate's committee from reporting contributions received and disclosed in conformity with this section from reporting them as required by the regular reporting requirements as contained in section five of this article.

(d) The Secretary of State shall prepare a form for disclosure of these contributions and publish the information on the Secretary of State's website within forty-eight hours of the Secretary of State receiving the completed form: Provided, That as an alternative, the Secretary of State is authorized to establish a means for electronic filing and disclosure.

(e) Pursuant to article three, chapter twenty-nine-a of this code, the Secretary of State may propose rules and emergency rules for legislative approval relating to procedures and policies consistent with this section.

WV Legislature