ENROLLED

Committee Substitute for

HOUSE BILL No. 968

(By Mrs. Spear and Mrs. Reckinger)

PASSED ______ March 12, 1976

In Effect ninety days from Passage
AN ACT to amend and reenact sections two, four, five and six, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto four new sections, designated sections five-a, five-b, five-c and five-d, all relating to elections; providing for records of receipts and expenditures for political purposes; requiring treasurers and financial agents to be designated in writing and where the written designations are to be filed; requiring detailed accounts and verified financial statements; requiring an additional preelection financial statement to be filed; changing the time for filing other preelection financial statements; requiring information that must be included in financial statements; requiring each contribution totaling more than fifty dollars to be by check or money order; providing full disclosure of all election campaign expenditures and liabilities; prohibiting contributions from funds of another unless full disclosure is made; providing where financial statements are to be filed; defining the term “contribution”; providing penalties and civil liability for certain violations; extending statute of limitations to five years; and requiring preservation of financial statements for a period of five years.
Be it enacted by the Legislature of West Virginia:

That sections two, four, five and six, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections five-a, five-b, five-c and five-d, all to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-2. Accounts for receipts and expenditures in elections.

Except candidates for party committeemen and committeewomen, in primary and other elections, all candidates for nomination or election and all persons or organizations of any kind advocating or opposing a nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, shall keep records of receipts and expenditures which are made for political purposes. All such receipts and expenditures shall be subject to regulation by the provisions of this article. Verified financial statements of such records and expenditures shall be made and filed as public records by all candidates and by their financial agents, representatives, or any person acting for and on behalf of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, and by the treasurers of all political party committees.

§3-8-4. Treasurers and financial agents; written designation requirements; “person” and “financial agent” defined.

No person shall act as the treasurer of any political party committee, or as financial agent for any candidate for nomination or election to any office to be filled by the voters of the entire state, delegates to a national convention, candidates for president of the United States, or candidates for nomination or election for any office, encompassing an election district larger than a county, or any person or organization advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, encompassing an election district larger than a county, unless a written statement designating him as such treasurer or financial agent shall be filed with the secretary
of state, at least sixty days before the election at which he is to act. No person shall act as treasurer of any such committee or as financial agent for any candidate to be nominated or elected by the voters of a county or a district therein, or as the treasurer or financial agent for a candidate for the nomination or election to any other office, or for the passage or defeat of any issue, thing or item to be voted upon not here-in mentioned, unless a written statement designating him as such treasurer or financial agent shall be filed with the clerk of the county commission at least sixty days before the election at which he is to act.

As used in this article:

The term "person" shall include an individual, partnership, committee, association, corporation, and any other organization or group of persons; and

The term "financial agent" shall include any person acting for and by himself, or any two or more natural persons 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 or principle at any election, or any proposition submitted to a vote at a public election.

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

Every candidate, financial agent, person and association of persons, organization of any kind, including the treasurer or equivalent officer of such association or organization, advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, and the treasurer of every political party committee shall keep detailed accounts of every sum of money or other thing of value, received by him, and of all expenditures and disbursements made, liabilities incurred, by such candidate, financial agent, person, association or organization or committee, for political purposes, or by any of the officers or members of such committee, or any person acting under its authority or on its behalf.
Each person who files a certificate of candidacy for nomination or election in this state as provided for in article five of this chapter and every financial agent, person, the treasurer or equivalent officer of any association or organization of any kind supporting or opposing the candidacy of any such candidate, or any person or organization advocating or opposing the nomination, election, or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, shall, within fifteen days following the first Saturday of February next preceding the primary election day, file a detailed itemized statement, subscribed and sworn to before an officer authorized to administer oaths, setting forth all contributions and expenditures concerning the candidacy of that person or any person or organization advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon. Such statement shall include all contributions received or expenditures made which have taken place by the date of such report, subsequent to any previous report filed within the previous five years under this section or under the former provisions of this section, or if no report was filed, all contributions received or expenditures made within the preceding five years. The specific information required to be included in such statement is provided for in section five-a of this article.

Not less than five nor more than ten days before each primary or other election, and again within thirty days after each primary or other election, every candidate for nomination or election, and every financial agent, person, the treasurer or equivalent officer of any association, or organization of any kind advocating or opposing the passage or defeat of any issue, thing or item to be voted upon or pertaining to the holding or conducting of any election, and the treasurer of every political party committee shall file with the officers hereinafter prescribed a detailed itemized financial statement subscribed and sworn to before an officer authorized to administer oaths, setting forth all financial transactions which have taken place by the date of such report in connection with such primary or other election as provided for in section five-a of this article.
§3-8-5a. Information required in financial statement.

Each financial statement, as required by this article shall show the following information:

(a) The first name, middle initial, if any, and last name, residence and mailing address and telephone number of each candidate, financial agent, treasurer or person, and the full name, address and telephone number of each association, organization or committee filing a 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 first name, middle initial, if any, and the last name in the case of an individual, and the full name of each firm, association or committee, and the amount of such contribution of such individual, firm, association or committee, and, if the aggregate of the sum or sums contributed by any one such individual, firm, association or committee exceeds two hundred fifty dollars there shall also be reported the residence and mailing address and, in the case of an individual, the major business affiliation and occupation. A contribution totaling more than fifty dollars by any one contributor is prohibited unless it is by money order or by check, and a violation of this provision is subject to section five-d of this article. As used herein, the term "check" shall have the meaning ascribed to that term in section one hundred four, article three, chapter forty-six of this code.

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

(e) The first name, middle initial, if any, and the last name, residence and mailing address in the case of an individual, or the full name and mailing address of each firm, association or committee 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.

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 herein, such lump sum expenditures shall be accounted for in the same manner as provided herein.

(f) The total expenditure for the nomination, election or defeat of a candidate or any person or organization advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, in whose behalf an expenditure was made or a contribution was given for the primary or other election.

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

(h) 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 balance in the next following financial statement.

(i) 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 subsection (c) 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.

For the purpose of this section the term “fund raising event” means an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as purchase of a ticket, payment of an attendance fee or through purchase of goods or services.
(j) Any contribution or expenditure made by or on behalf of a candidate for public office, or any other candidate, or committee for a candidate for any public office in the same election shall comply with the provisions of this article.

(k) No person, firm, association or committee shall make any contribution except from his own funds, unless such person, firm, association or committee discloses in writing to the person required to report under this section the first name, middle initial, if any, and the last name in the case of an individual, or the full name in the case of a firm, association or committee; residence and mailing address; the major business affiliation and occupation of the person, firm, association or committee which furnished the funds to such contributor. All such disclosures shall be included in the statement required by this section.

§3-8-5b. Where financial statement shall be filed.

The sworn financial statements provided for in sections five and five-a shall be filed with the secretary of state by candidates for state and other offices to be nominated or elected by the voters of a political division greater than a county, and with the clerk of the county commission, by all other candidates for offices to be nominated or elected.

§3-8-5c. “Contribution” defined.

The term “contribution,” as used in this article, shall mean a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether or not 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, or for the passage or defeat of any issue, thing or item to be voted upon. 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.

§3-8-5d. Offenses and penalties.

Any person who makes or receives a monetary contribution
of fifty dollars or more in value, other than by check or money
order, shall be guilty of a misdemeanor, and, upon conviction,
shall be fined a sum equal to three times the amount or value
of the contribution.

Notwithstanding the provision of section twenty-four, article
nine, of this chapter, a criminal prosecution or civil action for
violation of this article shall be commenced within five years
after the violation occurred.

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 infor-
mination to such person: Provided, That any person, firm, asso-
ciation or committee who provides false information to a
person required to report under this article shall be guilty of
a misdemeanor, as provided for in section twenty-three, article
nine of this chapter.

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

Blank forms for all financial statements required under
this article shall be prepared by the secretary of state, and
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 state-
ments who shall apply therefor. All statements filed in ac-
cordance 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ________ this the __________ day of ________________, 1976.

Governor
PRESENTED TO THE GOVERNOR

Date 3/19/76

Time 4:40p.m.