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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976



ENROLLED

Committee Substitute for

HOUSE BILL No. 968

(By Mrs. *Spears* & Mr. *Pitcnberger*)



PASSED March 12, 1976

In Effect ninety days from Passage



FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE

THIS DATE 3/26/76

968

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 968

(By MRS. SPEARS and MRS. PITSENBERGER)

(Originating in the House Committee on the Judiciary)

[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.

1 Except candidates for party committeemen and committee-
2 women, in primary and other elections, all candidates for
3 nomination or election and all persons or organizations of any
4 kind advocating or opposing a nomination, election or defeat
5 of any candidate, or the passage or defeat of any issue, thing
6 or item to be voted upon, shall keep records of receipts and
7 expenditures which are made for political purposes. All such
8 receipts and expenditures shall be subject to regulation by the
9 provisions of this article. Verified financial statements of such
10 records and expenditures shall be made and filed as public
11 records by all candidates and by their financial agents, repre-
12 sentatives, or any person acting for and on behalf of any
13 candidate, or the passage or defeat of any issue, thing or item
14 to be voted upon, and by the treasurers of all political party
15 committees.

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

1 No person shall act as the treasurer of any political party
2 committee, or as financial agent for any candidate for nomina-
3 tion or election to any office to be filled by the voters of the
4 entire state, delegates to a national convention, candidates for
5 president of the United States, or candidates for nomination
6 or election for any office, encompassing an election district
7 larger than a county, or any person or organization advocating
8 or opposing the nomination, election or defeat of any candi-
9 date, or the passage or defeat of any issue, thing or item to be
10 voted upon, encompassing an election district larger than a
11 county, unless a written statement designating him as such
12 treasurer or financial agent shall be filed with the secretary

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13 of state, at least sixty days before the election at which he is
14 to act. No person shall act as treasurer of any such committee
15 or as financial agent for any candidate to be nominated or
16 elected by the voters of a county or a district therein, or as
17 the treasurer or financial agent for a candidate for the nomi-
18 nation or election to any other office, or for the passage or
19 defeat of any issue, thing or item to be voted upon not here-
20 in mentioned, unless a written statement designating him as
21 such treasurer or financial agent shall be filed with the clerk of
22 the county commission at least sixty days before the election at
23 which he is to act.

24 As used in this article:

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25 The term "person" shall include an individual, partnership,
26 committee, association, corporation, and any other organiza-
27 tion or group of persons; and

28 The term "financial agent" shall include any person acting
29 for and by himself, or any two or more natural persons acting
30 together or cooperating in a financial way to aid or take part
31 in the nomination or election of any candidate for public of-
32 fice, or to aid or promote the success or defeat of any political
33 party or principle at any election, or any proposition sub-
34 mitted to a vote at a public election.

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

1 Every candidate, financial agent, person and association
2 of persons, organization of any kind, including the treasurer
3 or equivalent officer of such association or organization,
4 advocating or opposing the nomination, election or defeat
5 of any candidate, or the passage or defeat of any issue, thing
6 or item to be voted upon, and the treasurer of every
7 political party committee shall keep detailed accounts of
8 every sum of money or other thing of value, received by
9 him, and of all expenditures and disbursements made, liabilities
10 incurred, by such candidate, financial agent, person,
11 association or organization or committee, for political pur-
12 poses, or by any of the officers or members of such com-
13 mittee, or any person acting under its authority or on its
14 behalf.

15 Each person who files a certificate of candidacy for
16 nomination or election in this state as provided for in
17 article five of this chapter and every financial agent, per-
18 son, the treasurer or equivalent officer of any association
19 or organization of any kind supporting or opposing the
20 candidacy of any such candidate, or any person or organiza-
21 tion advocating or opposing the nomination, election, or
22 defeat of any candidate, or the passage or defeat of any
23 issue, thing or item to be voted upon, shall, within fifteen
24 days following the first Saturday of February next preceding
25 the primary election day, file a detailed itemized statement,
26 subscribed and sworn to before an officer authorized to
27 administer oaths, setting forth all contributions and expendi-
28 tures concerning the candidacy of that person or any person
29 or organization advocating or opposing the nomination, elec-
30 tion or defeat of any candidate, or the passage or defeat
31 of any issue, thing or item to be voted upon. Such statement
32 shall include all contributions received or expenditures made
33 which have taken place by the date of such report, subsequent
34 to any previous report filed within the previous five years
35 under this section or under the former provisions of this
36 section, or if no report was filed, all contributions received
37 or expenditures made within the preceding five years. The
38 specific information required to be included in such statement
39 is provided for in section five-a of this article.

40 Not less than five nor more than ten days before each
41 primary or other election, and again within thirty days after
42 each primary or other election, every candidate for nomina-
43 tion or election, and every financial agent, person, the
44 treasurer or equivalent officer of any association, or organiza-
45 tion of any kind advocating or opposing the passage or defeat
46 of any issue, thing or item to be voted upon or pertaining
47 to the holding or conducting of any election, and the treasurer
48 of every political party committee shall file with the officers
49 hereinafter prescribed a detailed itemized financial statement
50 subscribed and sworn to before an officer authorized to
51 administer oaths, setting forth all financial transactions which
52 have taken place by the date of such report in connection
53 with such primary or other election as provided for in
54 section five-a of this article.

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

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

3 (a) The first name, middle initial, if any, and last name,
4 residence and mailing address and telephone number of each
5 candidate, financial agent, treasurer or person, and the full
6 name, address and telephone number of each association, or-
7 ganization or committee filing a financial statement.

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

11 (c) The first name, middle initial, if any, and the last
12 name in the case of an individual, and the full name of each
13 firm, association or committee, and the amount of such
14 contribution of such individual, firm, association or com-
15 mittee, and, if the aggregate of the sum or sums contri-
16 buted by any one such individual, firm, association or com-
17 mittee exceeds two hundred fifty dollars there shall also be
18 reported the residence and mailing address and, in the case
19 of an individual, the major business affiliation and occupa-
20 tion. A contribution totaling more than fifty dollars by any
21 one contributor is prohibited unless it is by money order
22 or by check, and a violation of this provision is sub-
23 ject to section five-d of this article. As used herein, the
24 term "check" shall have the meaning ascribed to that term
25 in section one hundred four, article three, chapter forty-
26 six of this code.

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

29 (e) The first name, middle initial, if any, and the last
30 name, residence and mailing address in the case of an indivi-
31 dual, or the full name and mailing address of each firm, associa-
32 tion or committee to whom each expenditure was made or
33 liability incurred, together with the amount and purpose of
34 each expenditure or liability incurred and the date of each
35 transaction.

36 When any lump sum payment is made to any advertising

37 agency or other disbursing person who does not file a report
38 of detailed accounts and verified financial statements as
39 required herein, such lump sum expenditures shall be accounted
40 for in the same manner as provided herein.

41 (f) The total expenditure for the nomination, election
42 or defeat of a candidate or any person or organization ad-
43 vocating or opposing the nomination, election or defeat of
44 any candidate, or the passage or defeat of any issue, thing
45 or item to be voted upon, in whose behalf an expenditure was
46 made or a contribution was given for the primary or other
47 election.

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

50 (h) Any unexpended balance at the time of making the
51 financial statements herein provided for, shall be properly
52 accounted for in that financial statement and shall appear
53 as a balance in the next following financial statement.

54 (i) Each financial statement required by this section shall
55 contain a separate section setting forth the following in-
56 formation for each fund raising event held during the period
57 covered by the financial statement:

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

60 (2) All of the information required by subsection (c) of
61 this section.

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

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

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

66 For the purpose of this section the term "fund raising event"
67 means an event such as a dinner, reception, testimonial, cock-
68 tail party, auction or similar affair through which contributions
69 are solicited or received by such means as purchase of a
70 ticket, payment of an attendance fee or through purchase of
71 goods or services.

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72 (j) Any contribution or expenditure made by or on be-
73 half of a candidate for public office, *at* any other candidate,
74 or committee for a candidate for any public office in the same
75 election shall comply with the provisions of this article.

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76 (k) No person, firm, association or committee shall make
77 any contribution except from his own funds, unless such
78 person, firm, association or committee discloses in writing
79 to the person required to report under this section the first
80 name, middle initial, if any, and the last name in the case
81 of an individual, or the full name in the case of a firm, associa-
82 tion or committee; residence and mailing address; the major
83 business affiliation and occupation of the person, firm, associa-
84 tion or committee which furnished the funds to such contri-
85 butor. All such disclosures shall be included in the statement
86 required by this section.

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

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

§3-8-5c. "Contribution" defined.

1 The term "contribution," as used in this article, shall mean
2 a gift subscription, assessment, payment for services, dues, ad-
3 vance, donation, pledge, contract, agreement, forbearance or
4 promise of money or other tangible thing of value, whether or
5 not conditional or legally enforceable, or a transfer of money
6 or other tangible thing of value to a person, made for the
7 purpose of influencing the nomination, election or defeat of a
8 candidate, or for the passage or defeat of any issue, thing or
9 item to be voted upon. An offer or tender of a contribution is
10 not a contribution if expressly and unconditionally rejected
11 or returned. A contribution does not include volunteer per-
12 sonal services provided without compensation.

§3-8-5d. Offenses and penalties.

1 Any person who makes or receives a monetary contribution

2 of fifty dollars or more in value, other than by check or money
3 order, shall be guilty of a misdemeanor, and, upon conviction,
4 shall be fined a sum equal to three times the amount or value
5 of the contribution.

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

10 No person required to report under this article shall be
11 found in violation of this article if any person, firm, association
12 or committee making a contribution has provided false infor-
13 mation to such person: *Provided*, That any person, firm, asso-
14 ciation or committee who provides false information to a
15 person required to report under this article shall be guilty of
16 a misdemeanor, as provided for in section twenty-three, article
17 nine of this chapter.

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

1 Blank forms for all financial statements required under
2 this article shall be prepared by the secretary of state, and
3 copies thereof, together with a copy of this article, shall
4 be furnished through the county clerk or otherwise, as the
5 secretary of state may deem expedient, to all treasurers
6 of political committees, to all political financial agents, and
7 to all candidates for nomination or election to any office,
8 upon the filing of a petition or announcement for nomination,
9 and to all other persons required by law to file such state-
10 ments who shall apply therefor. All statements filed in ac-
11 cordance with the provisions of this article shall be received,
12 endorsed and filed by the secretary of state and county clerks,
13 and shall be preserved for five years, after which time they
14 may be destroyed, if not required to be further preserved
15 by the order of any court.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis

Chairman Senate Committee

Lawrence C. Christman

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. P. McLean, Jr.

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

H. C. Baskin

President of the Senate

Lewis F. R. Mann

Speaker House of Delegates

The within *approved* this the *25th*
day of *March*, 1976.

Paul A. Bruce, Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/19/76

Time 4:40 p.m.