

NO. 2202

RECEIVED
1989 APR 21 PM 2 12
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 2202

(By Del. Phillips & Humphreys)

— ● —

Passed April 8, 1989

In Effect Ninety Days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2202
(By DELEGATES PHILLIPS AND HUMPHREYS)

[Passed April 8, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact sections twenty-eight, twenty-nine and thirty-three, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twenty-seven, article four-a of said chapter; to amend and reenact sections five-a, five-c, eight, nine and twelve, article eight of said chapter, all relating to elections; election commissioners and clerks; appointment; notification; vacancies; oaths; qualifications; nonpartisan or public question elections; elections conducted by double boards; electronic voting systems; central counting center, proceedings; regulation and control of elections; financial statement information; definitions; corporation contributions forbidden, exceptions, penalties, rules; state election commission powers; lawful and unlawful election expenses, limitation upon expenses; advertising agencies; reporting requirements; delegation of expenditures; 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 and penalty.

Be it enacted by the Legislature of West Virginia:

That sections twenty-eight, twenty-nine and thirty-three, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twenty-seven, article four-a of said chapter be amended and reenacted; and that sections five-a, five-c, eight, nine and twelve, article eight of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-28. Election commissioners and clerks—Appointment and notification; vacancies; authority to administer oaths, etc.

1 The county commission of each county shall hold a
2 regular or special session at the courthouse of the county
3 no later than the forty-ninth day next preceding the date
4 on which any election is to be held and appoint three
5 commissioners and two clerks to hold the election in
6 each precinct in the county. In primary and general
7 elections and in any special election in which political
8 party candidates are to be nominated or elected, the
9 election commissioners and clerks shall be selected from
10 the two political parties which at the last preceding
11 general election cast the highest and the second highest
12 number of votes in this state. For primary and general
13 elections, the county commission may designate two
14 boards of election officers: *Provided*, That in all
15 precincts in which there are more than four hundred
16 registered voters, there shall be two boards of election
17 officers, and where two boards are used, each board
18 shall consist of three election commissioners and two
19 poll clerks, one of which boards shall be designated the
20 "receiving board" and the other the "counting board."
21 Not more than two commissioners and one poll clerk of
22 each board shall be appointed from the same political
23 party. For any special election for the purpose of taking
24 the sense of the voters on the question of calling a
25 constitutional convention, or to elect members of a
26 constitutional convention, or to ratify or reject the
27 proposals, acts and ordinances of a constitutional
28 convention, or where there are only public questions to
29 be voted upon, there shall be but one board of election
30 officials in each precinct, consisting of three commis-

31 sioners and two poll clerks. No later than the fifty-sixth
32 day next preceding the date of the election, the county
33 executive committee of either or both of the political
34 parties, from which commissioners and clerks of election
35 are to be selected, shall file with or present to the county
36 commission a writing signed by them, or by the
37 chairman or secretary of such committee on their
38 behalf, requesting the appointment of one election
39 commissioner and of one poll clerk of each receiving and
40 counting board and designating persons who are
41 qualified under this article for such appointment for
42 each election precinct in the county. The county
43 commission shall appoint the persons so designated.

44 The county commission shall, by mail, notify all
45 commissioners and poll clerks of their appointment, and
46 include with such notice an appropriate form for each
47 person so appointed to return indicating whether or not
48 he will serve as such commissioner or poll clerk. It shall
49 be the duty of all persons so appointed to immediately
50 return said form to the county commission. In the event
51 any of the persons so appointed refuse to serve as such
52 commissioners or poll clerks, the county commission
53 shall immediately notify the chairman of the county
54 executive committee of the political party from which
55 such commissioners and poll clerks are to be selected.
56 The chairman of the political committee so notified shall
57 recommend the person or persons to be appointed to
58 replace those declining to serve and it shall be the duty
59 of the county commission to appoint the person or
60 persons so recommended.

61 If any person appointed receiving commissioner or
62 clerk of election shall fail to appear at the voting place
63 at the hour for opening the polls, the remaining
64 commissioner or commissioners of election of the
65 political party to which the absentee belongs shall select
66 another commissioner or clerk, as the case may be, of
67 such political party. But if the qualified voters of his
68 party present at the polls shall nominate a voter of his
69 party qualified to act under the provisions of this
70 section, such nominee shall be appointed. If none of the
71 receiving commissioners of the election or poll clerks

72 shall appear at the voting place at the hour appointed
73 for opening the polls, the qualified voters present, being
74 at least ten in number, of the political party which cast
75 the highest number of votes in the county at the last
76 preceding election, shall select two commissioners and
77 one clerk and those of the political party which cast the
78 next highest number of votes in the county at such
79 election shall select one commissioner and one clerk of
80 the receiving board of such precinct, and the persons so
81 selected shall constitute the receiving board for the
82 precinct. A vacancy or vacancies on the counting board
83 shall be filled in the manner herein provided for filling
84 a vacancy or vacancies on the receiving board, except
85 that such vacancy or vacancies shall be determined and
86 filled as of the hour appointed in this chapter for the
87 counting board to attend at the polls. Any commissioner
88 of election acting at any election precinct is hereby
89 empowered and authorized to administer oaths and to
90 take and certify affidavits in relation to any matter or
91 thing required or permitted to be done by any of the
92 provisions of this article in conducting and holding the
93 election.

§3-1-29. Election commissioners and clerks—Appointment and notification; qualifications; nonpartisan or public question elections.

1 No person shall be eligible to be appointed as a
2 commissioner of election or as a poll clerk in any election
3 precinct who: (a) Is not a qualified voter in the magis-
4 terial district in which such precinct is situated; (b) has
5 anything of value bet or wagered on the result; (c) is
6 a candidate to be voted for at the ensuing election or who
7 is a parent, child, sibling or spouse of a candidate whose
8 name appears on the ballot in that precinct; (d) is
9 addicted to drunkenness; (e) is not of good character
10 and standing; (f) has served or acted in the capacity of
11 deputy sheriff within six months prior to the date of
12 holding any such primary or general election; or (g) has
13 been appointed as a commissioner of election or as poll
14 clerk in the past three years and failed to appear at the
15 polls by six o'clock a.m. without notifying the county
16 clerk by noon of the day preceding the election, except

17 in case of an emergency.

18 Whenever a nonpartisan or public question election is
19 to be conducted separate and apart from a primary or
20 general election, the provisions of this article relating to
21 the selection, appointment and qualifications of commis-
22 sioners of election and poll clerks shall govern and
23 control, except that persons duly registered as "inde-
24 pendent" or as adherents to a political party or group
25 other than the two majority political parties then
26 recognized, when otherwise qualified to be election
27 officials, may be appointed commissioners of election
28 and poll clerks for the conduct of such nonpartisan and
29 public question elections.

§3-1-33. How elections conducted by double boards.

1 In all precincts wherein two election boards shall have
2 been appointed, the receiving board shall attend at the
3 opening of the polls, shall open the polls, and shall
4 proceed with the election. The counting board shall
5 attend at the voting place not later than three hours
6 after the opening of the polls, and shall take charge of
7 the ballot box containing the ballots theretofore cast in
8 that precinct: *Provided*, That in precincts in which there
9 are more than four hundred registered voters, the
10 counting board shall appear no later than seven thirty
11 o'clock a.m. and may begin counting after twenty-five
12 ballots have been cast. They shall retire to a partitioned
13 room or space in the voting place and there proceed to
14 count and tabulate the ballots cast, as they shall find
15 them deposited in the ballot box. The receiving board
16 shall continue to receive the vote of electors in the other
17 box, until such time as the counting board shall have
18 finished counting and tabulating the ballots cast in the
19 first ballot box. The counting board shall, before
20 exchanging the ballot boxes as herein provided, seal the
21 ballots counted by it in envelopes to be provided for the
22 purpose, which shall not be opened until the two boards
23 shall together proceed with counting, tabulating and
24 summarizing the votes as by this chapter provided. The
25 two boards shall then exchange the first box for the
26 second box, and so continue until the hour of closing the
27 polls arrives.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-27. Proceedings at the central counting center.

1 (1) All proceedings at the central counting center
2 shall be under the supervision of the clerk of the county
3 commission, and shall be conducted under circumstan-
4 ces which allow observation by all persons entitled to be
5 present. The proceedings shall take place in a room of
6 sufficient size and satisfactory arrangement to permit
7 such observation. Those persons entitled to be present
8 shall include all candidates whose names appear on the
9 ballots being counted, or if such candidate be absent, a
10 representative of such candidate, and two representa-
11 tives of each political party on such ballot, who shall be
12 chosen by the local chairman of such political party's
13 executive committee. A reasonable number of the
14 general public shall also be freely admitted to the room.
15 In the event all members of the general public desiring
16 admission to the room cannot be admitted at one time,
17 the county commission shall provide for a periodic and
18 convenient rotation of admission to the room for
19 observation, to the end that each member of the general
20 public desiring admission shall, during the proceedings
21 at the central counting center, be granted such admis-
22 sion for reasonable periods of time for observation:
23 *Provided*, That no person except those authorized for the
24 purpose shall touch any ballot or ballot card or other
25 official records and papers utilized in the election
26 during such observation. All persons who are engaged
27 in processing and counting of the ballots shall be
28 representative of each political party on the ballot, and
29 shall be deputized in writing and take an oath that they
30 will faithfully perform their assigned duties. No person
31 who is a parent, child, sibling or spouse of a candidate
32 whose name appears on any ballot being counted may
33 be deputized or otherwise engage in the official
34 processing or counting of ballots. Such deputies shall be
35 issued an official badge or identification card which
36 shall be assigned an identity control number, and such
37 deputies shall prominently wear on his or her outer
38 garments the issued badge or identification card. Upon
39 completion of the deputies' duties, the badges or

40 identification cards shall be returned to the county
41 clerk. If any ballot card is damaged or defective so that
42 it cannot properly be counted by the automatic tabulat-
43 ing equipment, a true duplicate copy shall be made of
44 the damaged ballot card in the presence of representa-
45 tives of each political party on the ballot and substituted
46 for the damaged ballot card. All duplicate ballot cards
47 shall be clearly labeled "duplicate" and shall bear a
48 serial number which shall be recorded on the damaged
49 or defective ballot card and on the replacement ballot
50 card.

51 (2) The returns printed by the automatic tabulating
52 equipment at the central counting center, to which have
53 been added write-in and other valid votes, shall, when
54 certified by the board of canvassers, constitute the
55 official return of each precinct or election district.
56 Further, all such returns shall be printed on a precinct
57 basis. Upon completion of the count, the returns shall
58 be open to the public by posting such returns precinct
59 by precinct at the central counting center. Upon
60 completion of the canvass, the returns shall be posted
61 in the same manner.

62 (3) If for any reason it becomes impracticable to count
63 all or a part of the ballots with tabulating equipment,
64 the board of canvassers may direct that they be counted
65 manually, following as far as practicable the provisions
66 governing the counting of paper ballots.

67 (4) As soon as possible after the completion of the
68 count, the clerk of the county commission shall have the
69 vote recording devices properly boxed or securely
70 covered and removed from the polling place to a proper
71 and secure place of storage.

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

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

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

3 (a) The first name, middle initial, if any, and last
4 name, residence and mailing address and telephone
5 number of each candidate, financial agent, treasurer or

6 person, and the full name, address and telephone
7 number of each association, organization or committee
8 filing a financial statement.

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

12 (c) The first name, middle initial, if any, and the last
13 name in the case of an individual and the full name of
14 each firm, association or committee, and the amount of
15 such contribution of such individual, firm, association or
16 committee: *Provided*, That if the aggregate of the sum
17 or sums contributed by any one individual for a ticket
18 or tickets or admission to a fundraising event to raise
19 money for political purposes does not exceed ten dollars,
20 in the case of a candidate or candidate's committee, or
21 twenty-five dollars, in the case of a state party executive
22 committee, then the receiving organization or individual
23 shall be exempt from the individual reporting require-
24 ment provided for in this article and such exempt
25 aggregate sums shall not be subject to the provisions of
26 section twelve-f of this article. The receiving organiza-
27 tion or individual shall, however, have to report the total
28 amount contributed by the sale of such tickets for these
29 events. If the aggregate of the sum or sums contributed
30 by any one such individual, firm, association or commit-
31 tee exceeds two hundred fifty dollars there shall also be
32 reported the residence and mailing address and, in the
33 case of an individual, the major business affiliation and
34 occupation. A contribution totaling more than fifty
35 dollars by any one contributor is prohibited unless it is
36 by money order or by check, and a violation of this
37 provision is subject to section five-d of this article. As
38 used herein, the term "check" shall have the meaning
39 ascribed to that term in section one hundred four, article
40 three, chapter forty-six of this code.

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

43 (e) The first name, middle initial, if any, and the last
44 name, residence and mailing address in the case of an
45 individual or the full name and mailing address of each

46 firm, association or committee making or cosigning a
47 loan and the amount of any loan received, the date and
48 terms of the loan, including interest and repayment
49 schedule, along with a copy of the loan agreement.

50 (f) The first name, middle initial, if any, and the last
51 name, residence and mailing address in the case of an
52 individual or the full name and mailing address of each
53 firm, association or committee having previously made
54 or cosigned a loan for which payment is made or a
55 balance is outstanding at the end of the period, together
56 with the amount of repayment on the loan made during
57 the period and the balance at the end of the period.

58 (g) The total outstanding balance of all loans at the
59 end of the period.

60 (h) The first name, middle initial, if any, and the last
61 name, residence and mailing address in the case of an
62 individual, or the full name and mailing address of each
63 firm, association or committee to whom each expendi-
64 ture was made or liability incurred, together with the
65 amount and purpose of each expenditure or liability
66 incurred and the date of each transaction.

67 When any lump sum payment is made to any adver-
68 tising agency or other disbursing person who is not
69 required to file a report of detailed accounts and verified
70 financial statements as required herein, such lump sum
71 expenditures shall be accounted for in the same manner
72 as provided herein.

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

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

82 (k) Any unexpended balance at the time of making
83 the financial statements herein provided for shall be
84 properly accounted for in that financial statement and

85 shall appear as a balance in the next following financial
86 statement.

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

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

93 (2) All of the information as required by subdivision
94 (c) of this section.

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

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

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

100 For the purpose of this section the term "fund-raising
101 event" means an event such as a dinner, reception,
102 testimonial, cocktail party, auction or similar affair
103 through which contributions are solicited or received by
104 such means as purchase of a ticket, payment of an
105 attendance fee or through purchase of goods or services.

106 (m) Any contribution or expenditure made by or on
107 behalf of a candidate for public office, to any other
108 candidate, or committee for a candidate for any public
109 office in the same election shall comply with the
110 provisions of this article.

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

123 (o) Any firm, association, committee or fund permit-
124 ted by section eight of this article to be a political
125 committee shall disclose on the financial statement its
126 corporate or other affiliation.

127 (p) No contribution may be made, directly or indi-
128 rectly, in a fictitious name, anonymously or by one
129 person through an agent, relative or other person so as
130 to conceal the identity of the source of the contribution
131 or in any other manner so as to effect concealment of
132 the contributor's identity.

133 (q) No person, association or committee may accept
134 any contribution for the purpose of influencing the
135 nomination, election or defeat of a candidate or for the
136 passage or defeat of any issue or thing to be voted upon
137 unless the identity of the donor and the amount of the
138 contribution is known and reported.

139 (r) When any candidate, organization, committee or
140 person receives any anonymous contribution which
141 cannot be returned because the donor cannot be
142 identified, that contribution shall be donated to the
143 general revenue fund of the state. Any anonymous
144 contribution shall be recorded as such on the candidate's
145 financial statement, but may not be expended for
146 election expenses. At the time of filing, the financial
147 statement shall include a statement of distribution of
148 anonymous contributions, which total amount shall
149 equal the total of all anonymous contributions received
150 during the period.

151 (s) Any organization that raises funds, for political
152 purposes by assessing its members as part of its
153 membership dues may report the amount raised with
154 the following formula, if the assessment comes to less
155 than or equal to twenty-five dollars per person over the
156 course of the reporting periods defined in section five
157 of this article: The total amount raised for political
158 purposes through membership dues assessments is
159 reported by showing the amount assessed on each
160 member, or classification of members, times the number
161 of members assessed. If the amount raised in the
162 primary election or the general election period comes to

163 more than twenty-five dollars per person, then the name
164 of each member and the amount assessed shall be
165 reported. If the organization raises dues for purposes
166 other than for political purposes, then the funds raised
167 for political purposes must be segregated from the funds
168 for other purposes and listed in its report.

169 Political purposes means advocating or opposing the
170 nomination, election or defeat of one or more candidates,
171 supporting the retirement of the debt of a candidate or
172 political committee, supporting the administration or
173 activities of an established political party or an organ-
174 ization which has declared itself a political part,
175 supporting the administration or activities of a political
176 committee, and advocating or opposing the passage of
177 a ballot issue.

§3-8-5c. Definitions.

1 (a) "Contribution" means a gift subscription, assess-
2 ment, payment for services, dues, advance, donation,
3 pledge, contract, agreement, forbearance or promise of
4 money or other tangible thing of value, whether or not
5 conditional or legally enforceable, or a transfer of money
6 or other tangible thing of value to a person, made for
7 the purpose of influencing the nomination, election or
8 defeat of a candidate, or for the passage or defeat of any
9 issue, thing or item to be voted upon or to pay for past
10 election expenses. An offer or tender of a contribution
11 is not a contribution if expressly and unconditionally
12 rejected or returned. A contribution does not include
13 volunteer personal services provided without
14 compensation.

15 (b) "Political purposes" means advocating or opposing
16 the nomination, election or defeat of one or more
17 candidates, supporting the retirement of the debt of a
18 candidate or political committee, supporting the admin-
19 istration or activities of an established political party or
20 an organization which has declared itself a political
21 party, supporting the administration or activities of a
22 political committee, and advocating or opposing the
23 passage of a ballot issue.

24 (c) "Solicit" or "Solicitation" means the act of asking,

25 suggesting, requiring or inviting, either orally or in
26 writing, a person or persons, organization of any kind,
27 political committee or other entity to give a contribution
28 or other thing of value for political purposes, as defined
29 in this section.

**§3-8-8. Corporation contributions forbidden; exceptions;
penalties; promulgation of rules and regula-
tions; additional powers of state election
commission.**

1 (a) No officer of any corporation, or agent or person
2 on behalf of such corporation, whether incorporated
3 under the laws of this or any other state, or foreign
4 country, may pay, give or lend, or authorize to be paid,
5 given or lent, any money or other thing of value
6 belonging to such corporation, to any candidate,
7 financial agent or political committee or other person,
8 for the payment of any primary or other election
9 expenses whatever. Except as herein provided, no
10 person may solicit or receive such payment, contribution
11 or other thing from any corporation, officer or agent
12 thereof, or other person acting on behalf of such
13 corporation.

14 (b) (1) The provisions of this section shall not be
15 deemed to prohibit:

16 (A) Direct communications, other than by newspapers
17 of general circulation, radio, television or billboard
18 advertising likely to reach the general public, by a
19 corporation to its stockholders and executive or admin-
20 istrative personnel and their families, or when appli-
21 cable, by an incorporated association or organization or
22 group of persons to its noncorporate members and their
23 families, and to the stockholders and executive or
24 administrative personnel of its member corporations
25 and the families of such stockholders and executive or
26 administrative personnel;

27 (B) Nonpartisan registration and get-out-the-vote
28 campaigns by a corporation aimed at its stockholders
29 and executives or administrative personnel and their
30 families; and

31 (C) The solicitation of contributions to a separate
32 segregated fund to be utilized for political purposes by
33 any corporate officer, agent or any person on behalf of
34 a corporation. Any such fund shall be deemed to be a
35 political committee for the purpose of this article and
36 subject to all reporting requirements thereof.

37 (2) It shall be unlawful:

38 (A) For such a fund to make a contribution or
39 expenditure by utilizing money or anything of value
40 secured by physical force, job discrimination, financial
41 reprisal or the threat of force, job discrimination or
42 financial reprisal, or as a condition of employment, or
43 by moneys obtained in any commercial transaction;

44 (B) For any person soliciting a stockholder, executive
45 or administrative personnel and members of their
46 family for a contribution to such fund to fail to inform
47 such person of the political purposes of such fund at the
48 time of such solicitation;

49 (C) For any person soliciting any other person for a
50 contribution to such a fund to fail to inform such other
51 person at the time of such solicitation of his right to
52 refuse to so contribute without any reprisal;

53 (D) For a corporation, or a separate segregated fund
54 established by a corporation to solicit contributions to
55 such a fund from any person other than its stockholders
56 and their families and its executive or administrative
57 personnel and their families or when applicable, the
58 noncorporate members of an incorporated association or
59 organization or group of persons and their families, and
60 the stockholders and executive or administrative
61 personnel of the member corporations of such incorpo-
62 rated association or organization or groups of persons
63 and the families of such stockholders and executive or
64 administrative personnel, or to contribute any corporate
65 funds;

66 (E) For a corporation, or a separate segregated fund
67 established by a corporation to receive contributions to
68 such a fund from any person other than its stockholders
69 and their immediate families and its executive or

70 administrative personnel and their immediate families,
71 or when applicable, the noncorporate members of an
72 incorporated association or organization or group of
73 persons and their families, and the stockholders and
74 executive or administrative personnel of the member
75 corporations of such incorporated association or organ-
76 ization or groups of persons and the families of such
77 stockholders and executive or administrative personnel;

78 (F) For a corporation to engage in job discrimination
79 or to discriminate in job promotion or transfer because
80 of an employee's failure to make a contribution to such
81 fund;

82 (G) For such a fund directly or indirectly to make any
83 contribution, including any contribution which is in any
84 way earmarked or otherwise directed through an
85 intermediary or conduit, in excess of the value of one
86 thousand dollars in connection with any campaign for
87 nomination or election to or on behalf of any elective
88 office in the state or any of its subdivisions, or, subject
89 to the provisions of subsection (a) of this section in
90 connection with or on behalf of any committee or other
91 organization or person engaged in furthering, advanc-
92 ing or advocating the nomination or election of any
93 candidate for any such office; and

94 (H) For a corporation to pay, give or lend, or auth-
95 orize to be paid, given or lent, any moneys or other
96 things of value belonging to such corporation to such
97 fund for any purpose. This provision shall not be deemed
98 to prohibit such a fund from using the property, real or
99 personal, facilities and equipment of a corporation solely
100 to establish, administer and solicit contributions to the
101 fund, subject to the rules and regulations of the state
102 election commission as provided in subsection (d) of this
103 section: *Provided*, That such corporation shall also
104 permit any group of employees thereof represented by
105 a bona fide political action committee to use the real
106 property of such corporation solely to establish, admin-
107 ister and solicit contributions to the fund of such
108 political action committee, subject to the rules and
109 regulations of the state elections commission as provided
110 in subsection (d) of this section. No such property, real

111 or personal, facilities, equipment, materials or services
112 of a corporation shall be utilized for the purpose of
113 influencing any voter or voters to vote for a particular
114 candidate, or in any particular manner, or upon any
115 particular side of any question to be decided at any
116 election, or to influence the result of any such election:
117 *Provided, however,* That the prohibitions in this subsec-
118 tion shall not apply to telephone companies or telecom-
119 munications providers.

120 (I) Public utility companies and railroad companies
121 may not form funds or political action committees in
122 support of political candidates or parties, and may not
123 use corporate property, real or personal, facilities,
124 equipment, materials or services of said utility to
125 establish, administer or solicit contributions to such
126 fund or political action committee: *Provided,* That the
127 prohibitions in this subsection shall not apply to
128 telephone companies or telecommunications providers.

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

134 (c) Any person or corporation violating any provision
135 of this section shall be guilty of a misdemeanor, and, on
136 conviction, shall be fined not more than five thousand
137 dollars. No corporation shall reimburse any person the
138 amount of any such fine imposed pursuant to this
139 section.

140 (d) The state election commission shall promulgate
141 rules to implement the provisions of this section, which
142 rules and regulations, insofar as practicable, shall be the
143 same as the rules and regulations promulgated by the
144 federal election commission to carry out those provisions
145 of 2 USC §441b which are similar or identical to those
146 provisions contained in this section in order that the
147 provisions of this section and the regulations promul-
148 gated thereunder and the similar provisions of 2 USC
149 §441b and the regulations promulgated thereunder may
150 be uniformly administered and applied to corporations

151 subject to the cited section of the Federal Election
152 Campaign Act Amendments of 1976 and to this section.
153 The state election commission shall promulgate such
154 rules and regulations not later than sixty days after the
155 effective date of this subsection and in doing so shall be
156 governed by the provisions of article three, chapter
157 twenty-nine-a of this code.

158 (e) In addition to its powers and duties as set forth in
159 article one-a of this chapter, the state election commis-
160 sion shall have the following powers and duties:

161 1. To investigate, upon complaint or on its own
162 initiative, any alleged violations or irregularities of this
163 article.

164 2. To administer oaths and affirmations, issue subpo-
165 enas for the attendance of witnesses, issue subpoenas
166 duces tecum to compel the production of books, papers,
167 records and all other evidence necessary to any
168 investigation.

169 3. To involve the aid of any circuit court in the
170 execution of its subpoena power.

171 4. To report any alleged violations of this article to the
172 appropriate prosecuting attorney having jurisdiction,
173 which prosecuting attorney shall present to the grand
174 jury such alleged violations, together with all evidence
175 relating thereto, no later than the next term of court
176 after receiving the report.

177 It shall be the duty of the attorney general to provide
178 such legal and investigative assistance to the state
179 election commission as it may request and require.

180 Any investigation either upon complaint or initiative,
181 shall be conducted in an executive session of the state
182 election commission and shall remain undisclosed except
183 upon an indictment by a grand jury.

184 Any person who shall disclose the fact of any com-
185 plaint, investigation or report or any part thereof, or any
186 proceedings thereon, shall be guilty of a misdemeanor,
187 and, upon conviction thereof, shall be fined not less than
188 one thousand dollars, nor more than five thousand

189 dollars, and shall be imprisoned in the county jail not
190 less than six months nor more than one year.

**§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; delega-
tion of expenditures.**

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

6 (1) For rent, maintenance and furnishing of offices to
7 be used as political headquarters and for the payment
8 of necessary political advisors, clerks, secretaries,
9 typists, janitors and messengers actually employed
10 therein;

11 (2) In the case of a candidate who does not maintain
12 a headquarters, for reasonable office expenses and for
13 the payment of necessary political advisors, clerks,
14 secretaries and typists, actually employed;

15 (3) For printing and distributing brochures, circu-
16 lars, newspaper advertisements, and other printed
17 matter; for radio, television and other broadcast
18 advertisements; for painting, printing and posting signs,
19 banners and other posted advertisements; all of which
20 shall relate to political issues and candidates;

21 (4) For renting and decorating halls for fundraising
22 events, public meetings and political conventions, for
23 advertising and for providing food and beverages for
24 fundraising events and public meetings, and for the
25 payment of travel, food and lodging expenses of
26 speakers and musicians at such meetings;

27 (5) For child care or dependent care expenses in-
28 curred on behalf of the children or dependents of a
29 candidate in order to enable the candidate to engage in
30 campaign activities, which expenses shall be limited to
31 moneys expended for day care or babysitting services
32 provided for a child under fifteen years of age or for a

33 handicapped dependent person incapable of caring for
34 himself or herself and dependent on the candidate for
35 daily care.

36 (6) For the necessary travel, food, lodging, laundering,
37 dry-cleaning and motor vehicle rental, maintenance
38 and repair expenses of candidates;

39 (7) For the necessary travel, food and lodging and
40 other reasonable expenses of candidates' political agents
41 and committees whether paid or volunteer: *Provided,*
42 That for purposes of this subsection only, a volunteer
43 shall be a person who intends to work more than twenty
44 hours per week for at least eight weeks for a candidate
45 or committee: *Provided, however,* That any such expense
46 previously incurred shall be reimbursed to the candidate,
47 financial agent or treasurer of the political party
48 committee by the party in whose benefit the expenses
49 were incurred by a volunteer within ninety days of such
50 expenses failing to qualify as lawful election expenses
51 under the provisions of this subdivision;

52 (8) For stationery, copying, newspaper subscriptions,
53 postage, telegrams, telephone, express, freight and
54 public messenger or courier service;

55 (9) For preparing, circulating and filing petitions for
56 nomination of candidates;

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

61 (11) For employing temporary election workers to
62 distribute printed matter, contact voters, convey voters
63 to and from the polls and perform any other function
64 authorized by the provisions of this section: *Provided,*
65 That prior to election day, there shall be no limit on the
66 number of temporary election workers or the number
67 of days they may work: *Provided, however,* That the
68 amount of payment shall be established by legislative
69 rule promulgated by the state election commission.

70 (12) For securing publication in newspapers and by
71 radio and television broadcasting of documents, articles,

72 speeches, arguments and any information relating to
73 any political issue, candidate, question or proposition,
74 submitted to a vote;

75 (13) For conducting public opinion poll or polls. For
76 the purpose of this section, the phrase "conducting of
77 public opinion poll or polls" shall mean and be limited
78 to the gathering, collection, collation, and evaluation of
79 information reflecting public opinion, needs and prefer-
80 ences as to any candidate, group of candidates, party,
81 issue or issues. No such poll shall be deceptively
82 designed or intentionally conducted in a manner
83 calculated to advocate the election or defeat of any
84 candidate or group of candidates or calculated to
85 influence any person or persons so polled to vote for or
86 against any candidate, group of candidates, proposition
87 or other matter to be voted on by the public at any
88 election: *Provided*, That nothing herein shall prevent the
89 use of the results of any such poll or polls to further,
90 promote or enhance the election of any candidate or
91 group of candidates or the approval or defeat of any
92 proposition or other matter to be voted on by the public
93 at any election;

94 (14) For legitimate advertising agency services,
95 including commissions, in connection with any cam-
96 paign activity for which payment is authorized by
97 subdivisions three, four, eight, nine, ten, eleven, twelve
98 and thirteen of this subsection;

99 (15) For the employment of regular campaign staff,
100 including persons to perform campaign planning and
101 management, fund raising, clerical and other activities
102 for political purposes;

103 (16) For legal services and court costs required by a
104 candidate, agent or committee which legal services and
105 court costs shall be limited to services for proceedings
106 directly related to ballot access, eligibility of a candi-
107 date, a recount or an election contest or any election
108 complaint filed by other than by warrant or indictment;

109 (17) For accounting services required by a candidate,
110 agent or committee relating to the preparation of
111 detailed accounts of financial transactions and the

112 preparation and filing of financial statements and any
113 other documents required by law; and

114 (18) For the rent, lease, maintenance and repair of
115 fixed wing and/or rotary aircraft.

116 (b) Every liability incurred and payment made shall
117 be at a rate and for a total amount which is proper and
118 reasonable and fairly commensurate with the services
119 rendered.

120 (c) Every advertising agency subject to the provisions
121 of this article shall file, in the manner and form
122 required by section five-a of this article, the financial
123 statements required by section five of this article at the
124 times required therein and include therein, in itemized
125 detail, all receipts from and expenditures made on
126 behalf of a candidate, financial agent or treasurer of a
127 political party committee.

128 (d) Any candidate may designate a financial agent by
129 a writing duly subscribed by him which shall be in such
130 form and filed in accordance with the provisions of
131 section four of this article.

132 (e) For purposes of this section, "political purposes"
133 means advocating or opposing the nomination, election
134 or defeat of one or more candidates, supporting the
135 administration activities of an established political party
136 or an organization which has declared itself a political
137 party, supporting the administration or activities of a
138 political committee, advocating or opposing the passage
139 or defeat of a ballot issue, determining the advisability
140 of becoming a candidate under the precandidacy
141 financing provisions, and supporting the retirement of
142 the debt of a candidate or political committee incurred
143 for any of the above purposes.

**§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.**

1 (a) No person may publish, issue or circulate, or cause

2 to be published, issued or circulated, any anonymous
3 letter, circular, placard, or other publication tending to
4 influence voting at any election: *Provided*, That no letter
5 or circular may be considered anonymous if the
6 signature or heading clearly identifies the author;

7 (b) No owner, publisher, editor or employee of a
8 newspaper or other periodical may insert, either in its
9 advertising or reading columns, any matter, paid for or
10 to be paid for, which tends to influence the voting at any
11 election whatever, unless directly designating it as a
12 paid advertisement and stating the name of the person
13 authorizing its publication and the candidate in whose
14 behalf it is published;

15 (c) No person may, in any room or building occupied
16 for the discharge of official duties by any officer or
17 employee of the state or a political subdivision thereof,
18 solicit orally or by written communication delivered
19 therein, or in any other manner, any contribution of
20 money or other thing of value for any party or political
21 purpose whatever, from any postmaster or any other
22 officer or employee of the federal government, or officer
23 or employee of the state, or a political subdivision
24 thereof. No officer, agent, clerk or employee of the
25 federal government, or of this state, or any political
26 subdivision thereof, who may have charge or control of
27 any building, office or room, occupied for any official
28 purpose, shall knowingly permit any person to enter the
29 same for the purpose of therein soliciting or receiving
30 any political assessments from, or delivering or giving
31 written solicitations for, or any notice of, any political
32 assessments to, any officer or employee of the state, or
33 a political subdivision thereof;

34 (d) Except as provided in section eight of this article
35 no person entering into any contract with the state or
36 its subdivisions, or any department or agency thereof,
37 either for rendition of personal services or furnishing
38 any material, supplies or equipment or selling any land
39 or building to the state, or its subdivisions, or any
40 department or agency thereof, if payment for the
41 performance of such contract or payment for such
42 material, supplies, equipment, land or building is to be

43 made in whole or in part from public funds may, during
44 the period of negotiation for or performance under such
45 contract or furnishing of materials, supplies, equipment,
46 land or buildings, directly or indirectly make any
47 contribution to any political party, committee or
48 candidate for public office or to any person for political
49 purposes or use; nor shall any person or firm solicit any
50 contributions for any such purpose during any such
51 period;

52 (e) No person may, directly or indirectly, promise any
53 employment, position, work, compensation or other
54 benefit provided for, or made possible, in whole or in
55 part by act of the Legislature, to any person as
56 consideration, favor or reward for any political activity
57 for the support of or opposition to any candidate, or any
58 political party in any election;

59 (f) No person may, directly or indirectly, make any
60 contribution in excess of the value of one thousand
61 dollars in connection with any campaign for nomination
62 or election to or on behalf of any statewide or national
63 elective office, or in excess of the value of one thousand
64 dollars, in connection with any other campaign for
65 nomination or election to or on behalf of any other
66 elective office in the state or any of its subdivisions, or
67 in connection with or on behalf of any committee or
68 other organization or person engaged in furthering,
69 advancing or advocating the nomination or election of
70 any candidate for any such office: *Provided*, That letters
71 of endorsement shall not be considered contributions for
72 purposes of this article: *Provided, however*, That a
73 person may make an annual contribution not in excess
74 of five thousand dollars to one state executive committee
75 of a political party, as such term is defined in section
76 eight, article one of this chapter;

77 (g) No person may solicit any contribution from any
78 nonelective salaried employee of the state government or
79 of any of its subdivisions or coerce or intimidate any
80 such employee into making such contribution. No person
81 may coerce or intimidate any nonsalaried employee of
82 the state government or any of its subdivisions into
83 engaging in any form of political activity. The provisions

84 hereof shall not be construed to prevent any such
85 employee from making such a contribution or from
86 engaging in political activity voluntarily, without
87 coercion, intimidation or solicitation; and

88 (h) No person may solicit a contribution from any
89 other person without informing such other person at the
90 time of such solicitation of the amount of any commis-
91 sion, remuneration or other compensation that the
92 solicitor or any other person will receive or expect to
93 receive as a direct result of such contribution being
94 successfully collected. Nothing in this subsection shall
95 be construed to apply to solicitations of contributions
96 made by any person serving as an unpaid volunteer.

97 (i) Notwithstanding any other provisions contained in
98 this article, no person under eighteen years of age may,
99 directly or indirectly, make contributions for political
100 purposes, including contributions which are in any way
101 earmarked or otherwise directed through an interme-
102 diary or a conduit, to any candidate for nomination or
103 election to any statewide, national or any other elective
104 office in this state or any of its subdivisions, or in
105 connection with or on behalf of any committee or other
106 organization or person engaged in furthering, advanc-
107 ing or advocating the nomination or election of any such
108 candidate which, in the aggregate, exceed one hundred
109 dollars.

110 Any person violating any provision of this section shall
111 be guilty of a misdemeanor, and, upon conviction
112 thereof, shall be fined not more than one thousand
113 dollars, or confined in jail for not more than one year,
114 or, in the discretion of the court, be subject to both such
115 fine and imprisonment.

25 [Enr. Com. Sub. for H. B. 2202

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

Frederick L. Parker

Chairman Senate Committee

J. L. Sutto

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jack C. Miller

Clerk of the Senate

Donald L. Foy

Clerk of the House of Delegates

Sam R. Tucker

President of the Senate

Robert L. Taylor

Speaker of the House of Delegates

The within ~~is~~ *is disapproved* this the *21st*
day of *April*, 1989.

Walter D. Jones

Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/89

Time 10:21