WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
Committee Substitute for
SENATE BILL NO. 400

(By Senator Craigo, et al.)

PASSED March 12, 1994
In Effect 90 days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 400
(SENATORS CRAIGO, Boley, HUMPHREYS, BAILEY, CHAFIN, BLATNIK, SCHOONOVER AND SHARPE, original sponsors)

[Passed March 12, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact sections five-a and nine, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to elections generally; authorizing an alternative reporting procedure for certain fund-raising events held by political party executive committees or political action committees representing a political party; requiring certain other information be reported; and authorizing such organizations to expend funds for memorials, flowers or citations.

Be it enacted by the Legislature of West Virginia:

That sections five-a and nine, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.
§3-8-5a. Information required in financial statement.

(a) Each financial statement required by the provisions of this article shall contain the following information:

1. 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.

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 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 made 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.

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

5. The first name, middle initial, if any, and the last name, residence and mailing address of any individual or the full name and mailing address of each firm, association or committee making or cosigning a loan and the amount of any loan received, the date and terms of the loan, including interest and repayment schedule,
along with a copy of the loan agreement.

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

(9) 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.

(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 balance in the next following 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, firm, association or committee may make any contribution except from their 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 case of a firm, association or committee, residence and mailing address and 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.

(g) Any firm, association, committee or fund permitted by section eight of this article 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, firm, association or committee may accept any contribution for the purpose of influencing the nomination, election or defeat of a candidate or for the passage or defeat of any issue or thing to be voted upon unless the identity of the donor and the amount of the contribution is known and reported.

(j) When any candidate, organization, committee or person receives any 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 twenty-five dollars 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 twenty-five dollars
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 such 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.

(1) For purposes of this section:

(1) “Political purposes” means advocating or opposing the nomination, election or defeat of one or more candidates, supporting the retirement of the debt of a candidate or activities of an established political party or an organization which has declared itself a political party, supporting the administration or activities of a political committee or advocating or opposing the passage of a ballot issue.

(2) “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. This term shall not include organizations that grant membership upon receiving a contribution.

(3) “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 the purchase of a ticket, payment of an attendance fee or by the purchase of goods or services.

(m) Notwithstanding the provisions of section five of this article or of the provisions of this section to the contrary, an alternative reporting procedure may be followed by a political party executive committee or a political action committee representing a political party in filing financial reports for fund-raising events if the total profit does not exceed five thousand dollars per year. A political party executive committee or a political action committee representing a political party may report gross receipts for the sale of food, beverages, services, novelty items, raffle tickets or memorabilia, except that any receipt of more than fifty dollars from an individual or organization shall be reported as a contribution. A political party executive committee or a political action committee representing a political party using this alternative method of reporting shall report:

(i) The name of the committee; (ii) the type of fund-raising activity undertaken; (iii) the location where the activity occurred; (iv) the date of the fund raiser; (v) the name of any individual who contributed more than fifty dollars worth of items to be sold; (vi) the name and amount received from any person or organization purchasing more than fifty dollars worth of food, beverages, services, novelty items, raffle tickets or memorabilia; (vii) the gross receipts of the fund raiser; 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 fifty dollars were purchased for resale.

§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 candidate, financial agent or treasurer of a
political party committee shall 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 and furnishing of offices to
be used as political headquarters and for the payment of
necessary clerks, stenographers, typists, janitors and
messengers actually employed therein;

(2) In the case of a candidate who does not maintain a
headquarters, for reasonable office expenses and for the
payment of necessary clerks, stenographers and typists,
actually employed;

(3) For printing and distributing books, pamphlets,
circulars and other printed matter and radio and
television broadcasting and painting, printing and
posting signs, banners and other advertisements, all
relating to political issues and candidates;

(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 preferences as to any candidate, group of candidates, party, issue or issues. No such poll shall 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 shall 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; and

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

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

(c) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by section five-a of this article, the financial statements required by section five of this article 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.

(d) Any candidate may designate a financial agent by
a writing duly subscribed by him which shall be in such
form and filed in accordance with the provisions of
section four of this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 is approved this the 30th day of Mail, 1994.