WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED
Committee Substitute for
SENATE BILL NO. 125

(By Senator Kessler, et al.)

PASSED March 17, 2004

In Effect 90 Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 125
(SENATORS KESSLER, PLYMALE, EDGELL
AND BOWMAN, original sponsors)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §3-8-12 of the code of West Virginia, 1931, as amended, relating to permitting solicitation of certain state employees for contributions to campaigns for or against ballot issues in county or local elections.

Be it enacted by the Legislature of West Virginia:

That §3-8-12 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

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

(a) No person may publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, radio or television advertisement or other publication expressly advocating the election or defeat of a clearly identified candidate.

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

(c) No person may, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision of the state, solicit orally or by written communication delivered within the room or building, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the state, or a political subdivision of the state. No officer, agent, clerk or employee of the federal government, or of this state, or any political subdivision of the state, who may have charge or control of any building, office or room, occupied for any official purpose, may knowingly permit any person to enter any building, office or room, occupied for any official purpose, for the purpose of soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state or a political subdivision of the state.

(d) Except as provided in section eight of this article, no person entering into any contract with the state or its subdivisions, or any department or agency of the state,
either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land or building is to be made, in whole or in part, from public funds may, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly, make any contribution to any political party, committee or candidate for public office or to any person for political purposes or use; nor may any person or firm solicit any contributions for any purpose during any period.

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

(f) No person may, directly or indirectly, make any contribution in excess of the value of one thousand dollars in connection with any campaign for nomination or election to or on behalf of any statewide office, or in excess of the value of one thousand dollars, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing or advocating the nomination or election of any candidate for any of the offices.

(g) (1) Notwithstanding the provisions of subsection (f) of this section to the contrary, the aggregate contributions made to a state party executive committee or state party legislative caucus committee are to be permitted only
(2) No person may, directly or indirectly, make contributions to a state party executive committee or state party legislative caucus committee which, in the aggregate, exceed the value of one thousand dollars in any calendar year.

(h) The limitations on contributions contained in this section do not apply to transfers between and among a state party executive committee or a state party's legislative caucus political committee from national committees of the same political party: Provided, That transfers permitted by this subsection may not exceed fifty thousand dollars in the aggregate in any calendar year to any state party executive committee or state party legislative caucus political committee: Provided, however, That the moneys transferred may only be used for voter registration and get-out-the-vote activities of the state committees.

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

(j) No person may solicit a contribution from any other person without informing the other person at the time of
the solicitation of the amount of any commission, remu-
neration or other compensation that the solicitor or any
other person will receive or expect to receive as a direct
result of the contribution being successfully collected.
Nothing in this subsection may be construed to apply to
solicitations of contributions made by any person serving
as an unpaid volunteer.

(k) No person may place any letter, circular, flyer,
advertisement, election paraphernalia, solicitation mate-
rial or other printed or published item tending to influence
voting at any election in a roadside receptacle unless it is:
(1) Approved for placement into a roadside receptacle by
the business or entity owning the receptacle; and (2)
contains a written acknowledgment of the approval. This
subdivision does not apply to any printed material con-
tained in a newspaper or periodical published or distrib-
uted by the owner of the receptacle. The term “roadside
receptacle” means any container placed by a newspaper or
periodical business or entity to facilitate home or personal
delivery of a designated newspaper or periodical to its
customers.

(l) Any person violating any provision of this section is
guilty of a misdemeanor and, upon conviction thereof,
shall be fined not more than one thousand dollars, or
confined in a regional or county jail for not more than one
year or, in the discretion of the court, be subject to both
fine and confinement.

(m) The provisions of subsection (i) of this section,
permitting contributions to a campaign for or against a
county or local government ballot issue, shall become
operable on and after the first day of January, two thou-
sand five.
The 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 Apri, 2004.

Governor
PRESENTED TO THE
GOVERNOR

DATE  3/23/04
TIME  10:16 AM