

HB 2869

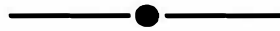
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

**House Bill No. 2869**

(By Delegates Fleischauer, Staggers, Susman, Caputo, Ferro, Michael,  
Brown, Hunt, Miley, Barker and Moore)



Passed April 11, 2009

In Effect Ninety Days from Passage

ENROLLED FILED

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FOR

**H. B. 2869**

OFFICE WEST VIRGINIA  
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(BY DELEGATES FLEISCHAUER, STAGGERS, SUSMAN,  
CAPUTO, FERRO, MICHAEL, BROWN, HUNT,  
MILEY, BARKER AND MOORE)

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[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §3-8-5 and §3-8-7 of the Code of West Virginia, 1931, as amended, all relating to lengthening the time frame for the filing of final post-primary and post-general campaign financial statements.

*Be it enacted by the Legislature of West Virginia:*

That §3-8-5 and §3-8-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.**

**§3-8-5. Detailed accounts and verified financial statements required.**

1 (a) Every candidate, treasurer, person and association of  
2 persons, organization of any kind, including every  
3 corporation, directly, or by an independent expenditure,  
4 supporting a political committee established pursuant to  
5 paragraph (C), subdivision (1), subsection (b), section eight  
6 of this article or engaging in other activities permitted by this  
7 section and also including the treasurer or equivalent officer  
8 of the association or organization, expressly advocating the  
9 election or defeat of a clearly identified candidate for state,  
10 district, county or municipal office, and the treasurer of every  
11 political committee shall keep detailed accounts of every sum  
12 of money or other thing of value received by him or her,  
13 including all loans of money or things of value and of all  
14 expenditures and disbursements made, liabilities incurred, by  
15 the candidate, financial agent, person, association or  
16 organization or committee, for political purposes, or by any  
17 of the officers or members of the committee, or any person  
18 acting under its authority or on its behalf.

19 (b) Every person or association of persons required to  
20 keep detailed accounts under this section shall file with the  
21 officers hereinafter prescribed a detailed itemized sworn  
22 statement:

23 (1) Of all financial transactions, whenever the total  
24 exceeds \$500, which have taken place before the last  
25 Saturday in March, to be filed within six days thereafter and  
26 annually whenever the total of all financial transactions  
27 relating to an election exceeds \$500;

28 (2) Of all financial transactions which have taken place  
29 before the fifteenth day preceding each primary or other  
30 election and subsequent to the previous statement, if any, to  
31 be filed within four business days after the fifteenth day;

32 (3) Of all financial transactions which have taken place  
33 before the thirteenth day after each primary or other election

34 and subsequent to the previous statement, if any, to be filed  
35 within twenty business days after the thirteenth day; and

36 (4) Of all financial transactions, whenever the total  
37 exceeds \$500 or whenever any loans are outstanding, which  
38 have taken place before the forty-third day preceding the  
39 general election day, to be filed within four business days  
40 after the forty-third day.

41 (c) Every person who announces as a write-in candidate  
42 for any elective office and his or her financial agent or  
43 election organization of any kind shall comply with all of the  
44 requirements of this section after public announcement of the  
45 person's candidacy has been made.

46 (d) For purposes of this section, the term "financial  
47 transactions" includes all contributions or loans received and  
48 all repayments of loans or expenditures made to promote the  
49 candidacy of any person by any candidate or any  
50 organization advocating or opposing the nomination, election  
51 or defeat of any candidate to be voted on.

52 (e) Candidates for the office of conservation district  
53 supervisor elected pursuant to the provisions of article  
54 twenty-one-a, chapter nineteen of this code are required to  
55 file only the reports required by subdivisions (2) and (3),  
56 subsection (b) of this section immediately prior to and after  
57 the primary election: Provided, That during the election in  
58 the year 2008, the statements required by this subsection shall  
59 be filed immediately prior to and after the general election.

**§3-8-7. Failure to file statement; delinquent or incomplete  
filing; criminal and civil penalties.**

1 (a) Any person, candidate, financial agent or treasurer of  
2 a political party committee who fails to file a sworn, itemized  
3 statement required by this article within the time limitations

4 specified in this article or who willfully files a grossly  
5 incomplete or grossly inaccurate statement shall be guilty of  
6 a misdemeanor and, upon conviction thereof, shall be fined  
7 not less than \$500 or confined in jail for not more than one  
8 year, or both, in the discretion of the court. Sixty days after  
9 any primary or other election, the Secretary of State, or  
10 county clerk, or municipal recorder, as the case may be, shall  
11 give notice of any failure to file a sworn statement or the  
12 filing of any grossly incomplete or grossly inaccurate  
13 statement by any person, candidate, financial agent or  
14 treasurer of a political party committee and forward copies of  
15 any grossly incomplete or grossly inaccurate statement to the  
16 prosecuting attorney of the county where the person,  
17 candidate, financial agent, or treasurer resides, is located or  
18 has its principal place of business.

19 (b)(1) Any person, candidate, financial agent or treasurer  
20 of a political party committee who fails to file a sworn,  
21 itemized statement as required in this article or who files a  
22 grossly incomplete or grossly inaccurate statement may be  
23 assessed a civil penalty by the Secretary of State of \$25 a day  
24 for each day after the due date the statement is delinquent,  
25 grossly incomplete or grossly inaccurate. Sixty days after  
26 any primary or other election, the county clerk shall give  
27 notice to the Secretary of State of any failure to file a sworn  
28 statement or the filing of any grossly incomplete or grossly  
29 inaccurate statement by any person, candidate, financial  
30 agent or treasurer of a political party committee and forward  
31 copies of such delinquent, incomplete or inaccurate  
32 statements to the Secretary of State.

33 (2) A civil penalty assessed pursuant to this section shall  
34 be payable to the State of West Virginia and is collectable as  
35 authorized by law for the collection of debts.

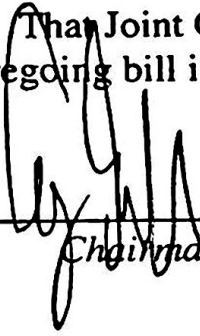
36 (3) The Secretary of State may negotiate and enter into  
37 settlement agreements for the payment of civil penalties

38 assessed as a result of the filing of a delinquent, grossly  
39 incomplete or inaccurate statement.

40 (4) The Secretary of State and county clerk may review  
41 and audit any sworn statement required to be filed pursuant  
42 to this article. The State Election Commission shall propose  
43 legislative rules for promulgation, in accordance with chapter  
44 twenty-nine-a of this code, to establish procedures for the  
45 assessment of civil penalties as provided in this section.

46 (c) No candidate nominated at a primary election who has  
47 failed to file a sworn statement, as required by this article,  
48 shall have his or her name placed on the official ballot for the  
49 ensuing election, unless there has been filed by or on behalf  
50 of such candidate, or by his or her financial agent, if any, the  
51 financial statement relating to nominations required by this  
52 article. It is unlawful to issue a commission or certificate of  
53 election, or to administer the oath of office, to any person  
54 elected to any public office who has failed to file a sworn  
55 statement as required by this article and no person may enter  
56 upon the duties of his or her office until he or she has filed  
57 such statement, nor may he or she receive any salary or  
58 emolument for any period prior to the filing of such  
59 statement.

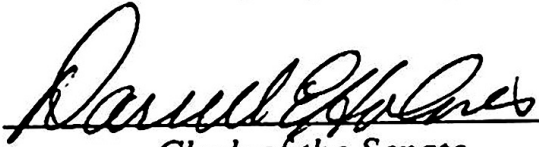
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee

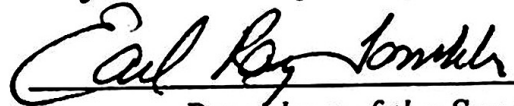
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

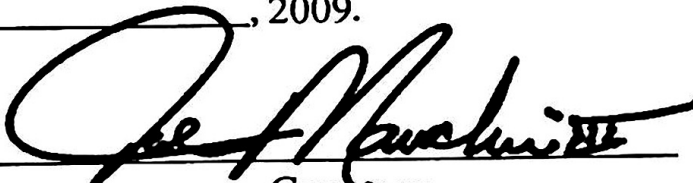
  
\_\_\_\_\_  
Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 6<sup>th</sup>  
day of May, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 4 2009

Time 10:05 am