

2010 APR -1 PM 4: 22

CLERK OF THE HOUSE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2010

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4647**

(By Delegates Manchin, Frazier,  
Moore, Miley, Brown, Caputo, Wooton,  
Ferro and Wells)

—●—  
Passed March 13, 2010

In Effect Ninety Days From Passage

HB 4647

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COMMITTEE SUBSTITUTE

FOR

OFFICE OF THE SECRETARY OF STATE

## H. B. 4647

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(BY DELEGATES MANCHIN, FRAZIER,  
MOORE, MILEY, BROWN, CAPUTO, WOOTON,  
FERRO AND WELLS)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to repeal §3-9-14 of the Code of West Virginia 1931, as amended; and to amend and reenact §3-8-1, §3-8-1a, §3-8-2, §3-8-8 and §3-8-12 of said code, all relating to the regulation and control of elections; providing certain legislative findings; amending and deleting certain definitions; expanding reporting requirements for independent expenditures; providing for electronic filing of reports of independent expenditures; authorizing the Secretary of State to promulgate rules relating to reports of independent expenditures; retaining prohibition on corporate contribution; and repealing the ban on corporate independent expenditures.

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

That §3-9-14 of the Code of West Virginia, 1931, as amended, be repealed; that §3-8-1, §3-8-1a, §3-8-2, §3-8-8 and §3-8-12 of said code be amended and reenacted, all to read as follows:

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

**§3-8-1. Provisions to regulate and control elections.**

1 (a) The Legislature finds that:

2 (1) West Virginia's population is 1,808,344, ranking 37th  
3 among the fifty states.

4 (2) State Senate districts have a population of  
5 approximately one hundred six thousand three hundred  
6 seventy-three, and the average Delegate district has a  
7 population of approximately thirty-one thousand, one  
8 hundred seventy-eight. The size of these districts is  
9 substantially smaller than the United States Senatorial and  
10 Congressional Districts.

11 (3) When the relatively small size of the State's  
12 legislative and other voting districts is combined with the  
13 economics and typical uses of various forms of electioneering  
14 communication, history shows that non-broadcast media is  
15 and will continue to be a widely used means of making  
16 campaign related communications to target relevant  
17 audiences. Consequently, non-broadcast communications are  
18 prevalent during elections.

19 (4) Disclosure provisions are appropriate legislative  
20 weapons against the reality or appearance of improper  
21 influence stemming from the dependence of candidates on  
22 large campaign contributions, and the ceilings imposed  
23 accordingly serve the basic governmental interest in  
24 maintaining the integrity of the electoral process without  
25 diminishing the rights of individual citizens and  
26 candidates to engage in political debate and discussion.

27 (5) Disclosure of expenditures serve a substantial  
28 governmental interest in informing the electorate and  
29 preventing the corruption of the political process.

30 (6) Disclosure by persons and entities that make  
31 expenditures for communications that expressly advocate the  
32 election or defeat of clearly identified candidates, or perform  
33 its functional equivalent, is a reasonable and minimally  
34 restrictive method of furthering First Amendment values by  
35 public exposure of the state election system.

36 (7) Failing to regulate non-broadcast media messages  
37 would permit those desiring to influence elections to avoid  
38 the principles and policies that are embodied in existing state  
39 law.

40 (8) The regulation of the various types of non-broadcast  
41 media in addition to broadcast media, is tailored to meet the  
42 circumstances found in the State of West Virginia.

43 (9) Non-broadcast media such as newspapers, magazines  
44 or other periodicals have proven to be effective means of  
45 election communication in West Virginia. Broadcast,  
46 satellite and non-broadcast media have all been used to  
47 influence election outcomes.

48 (10) Certain non-broadcast communications, such as  
49 newspaper inserts, can be more effective campaign methods  
50 than broadcast media because such communications can be  
51 targeted to registered voters or historical voters in the  
52 particular district. In contrast, broadcasted messages reach  
53 all of the general public, including person ineligible to vote  
54 in the district.

55 (11) Non-broadcast media communications in the final  
56 days of a campaign can be particularly damaging to the

57 public's confidence in the election process because they  
58 reduce or make impossible an effective response.

59 (12) Identifying those funding non-broadcast media  
60 campaigns in the final days of a campaign may at least permit  
61 voters to evaluate the credibility of the message.

62 (13) In West Virginia, contributions up to the amounts  
63 specified in this article allow contributors to express their  
64 opinions, level of support and their affiliations.

65 (14) In West Virginia, campaign expenditures by entities  
66 and persons who are not candidates have been increasing.  
67 Public confidence is eroded when substantial amounts of  
68 such money, the source of which is hidden or disguised, is  
69 expended. This is particularly true during the final days of a  
70 campaign.

71 (15) In West Virginia, contributions to political  
72 organizations, defined in Section 527(e)(1) of the Internal  
73 Revenue Code of 1986, substantially larger than the amounts  
74 permitted to be received by a candidate's political committee  
75 have been recorded and are considered by the legislature to  
76 be large contributions.

77 (16) Independent expenditures intended to influence  
78 candidates' campaigns in the state are increasingly utilizing  
79 non-broadcast media to support or defeat candidates.

80 (17) Identification of persons or entities funding political  
81 advertisements assists in enforcement of the contribution and  
82 expenditure limitations established by this article and simply  
83 informs voters of the actual identities of persons or entities  
84 supporting the election or defeat of candidates.

85 (18) Identification of persons or entities funding political  
86 advertisements allows voters to evaluate the credibility of the  
87 message contained in the advertisement.

88 (19) Disclosure of the identity of persons or entities  
89 funding political communications regarding candidates  
90 bolsters the right of listeners to be fully informed.

91 (b) Political campaign contributions, receipts and  
92 expenditures of money, advertising, influence and control of  
93 employees, and other economic, political and social control  
94 factors incident to primary, special and general elections shall  
95 be regulated and controlled by the provisions of this article  
96 and other applicable provisions of this chapter.

### §3-8-1a. Definitions.

1 As used in this article, the following terms have the  
2 following definitions:

3 (1) “Ballot issue” means a constitutional amendment,  
4 special levy, bond issue, local option referendum, municipal  
5 charter or revision, an increase or decrease of corporate limits  
6 or any other question that is placed before the voters for a  
7 binding decision.

8 (2) “Broadcast, cable or satellite communication” means  
9 a communication that is publicly distributed by a television  
10 station, radio station, cable television system or satellite  
11 system.

12 (3) “Candidate” means an individual who:

13 (A) Has filed a certificate of announcement under section  
14 seven, article five of this chapter or a municipal charter;

15 (B) Has filed a declaration of candidacy under section  
16 twenty-three, article five of this chapter;

17 (C) Has been named to fill a vacancy on a ballot; or

18 (D) Has declared a write-in candidacy or otherwise  
19 publicly declared his or her intention to seek nomination or  
20 election for any state, district, county or municipal office or  
21 party office to be filled at any primary, general or special  
22 election.

23 (4) "Candidate's committee" means a political committee  
24 established with the approval of or in cooperation with a  
25 candidate or a prospective candidate to explore the  
26 possibilities of seeking a particular office or to support or aid  
27 his or her nomination or election to an office in an election  
28 cycle. If a candidate directs or influences the activities of  
29 more than one active committee in a current campaign, those  
30 committees shall be considered one committee for the  
31 purpose of contribution limits.

32 (5) "Clearly identified" means that the name, nickname,  
33 photograph, drawing or other depiction of the candidate  
34 appears or the identity of the candidate is otherwise apparent  
35 through an unambiguous reference, such as "the Governor,"  
36 "your Senator" or "the incumbent" or through an  
37 unambiguous reference to his or her status as a candidate,  
38 such as "the Democratic candidate for Governor" or "the  
39 Republican candidate for Supreme Court of Appeals."

40 (6) "Contribution" means a gift, subscription, loan,  
41 assessment, payment for services, dues, advance, donation,  
42 pledge, contract, agreement, forbearance or promise of  
43 money or other tangible thing of value, whether conditional  
44 or enforceable or a transfer of money or other  
45 thing of value to a person, made for the purpose of  
46 influencing the nomination, election or defeat of a candidate.

47 An offer or tender of a contribution is not a contribution if  
48 expressly and unconditionally rejected or returned. A  
49 contribution does not include volunteer personal services  
50 provided without compensation: *Provided*, That a  
51 nonmonetary contribution is to be considered at fair market  
52 value for reporting requirements and contribution limitations.

53 (7) “Corporate political action committee” means a  
54 political action committee that is a separate segregated fund  
55 of a corporation that may only accept contributions from its  
56 restricted group as outlined by the rules of the State Election  
57 Commission.

58 (8) “Direct costs of purchasing, producing or  
59 disseminating electioneering communications” means:

60 (A) Costs charged by a vendor, including, but not limited  
61 to, studio rental time, compensation of staff and employees,  
62 costs of video or audio recording media and talent, material  
63 and printing costs and postage; or

64 (B) The cost of air time on broadcast, cable or satellite  
65 radio and television stations, the costs of disseminating  
66 printed materials, studio time, use of facilities and the  
67 charges for a broker to purchase air time.

68 (9) “Disclosure date” means either of the following:

69 (A) The first date during any calendar year on which any  
70 electioneering communication is disseminated after the  
71 person paying for the communication has spent a total of  
72 \$5,000 or more for the direct costs of purchasing, producing  
73 or disseminating electioneering communications; or

74 (B) Any other date during that calendar year after any  
75 previous disclosure date on which the person has made

76 additional expenditures totaling \$5,000 or more for the direct  
77 costs of purchasing, producing or disseminating electioneering  
78 communications.

79 (10) "Election" means any primary, general or special  
80 election conducted under the provisions of this code or under  
81 the charter of any municipality at which the voters nominate  
82 or elect candidates for public office. For purposes of this  
83 article, each primary, general, special or local election  
84 constitutes a separate election. This definition is not intended  
85 to modify or abrogate the definition of the term "nomination"  
86 as used in this article.

87 (11)(A) "Electioneering communication" means any paid  
88 communication made by broadcast, cable or satellite signal,  
89 or published in any newspaper, magazine or other periodical  
90 that:

91 (i) Refers to a clearly identified candidate for Governor,  
92 Secretary of State, Attorney General, Treasurer, Auditor,  
93 Commissioner of Agriculture, Supreme Court of Appeals or  
94 the Legislature;

95 (ii) Is publicly disseminated within:

96 (I) Thirty days before a primary election at which the  
97 nomination for office sought by the candidate is to be  
98 determined; or

(II) Sixty days before a general or special election at  
which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate: *Provided*, That  
for purposes of the general election of 2008 the amendments  
to this article are effective October 1, 2008.

B) "Electioneering communication" does not include:

105 (i) A news story, commentary or editorial disseminated  
106 through the facilities of any broadcast, cable or satellite  
107 television or radio station, newspaper, magazine or other  
108 periodical publication not owned or controlled by a political  
109 party, political committee or candidate: *Provided*, That a  
110 news story disseminated through a medium owned or  
111 controlled by a political party, political committee or  
112 candidate is nevertheless exempt if the news is:

113 (I) A bona fide news account communicated in a  
114 publication of general circulation or through a licensed  
115 broadcasting facility; and

116 (II) Is part of a general pattern of campaign-related news  
117 that gives reasonably equal coverage to all opposing  
118 candidates in the circulation, viewing or listening area;

119 (ii) Activity by a candidate committee, party executive  
120 committee or caucus committee, or a political action  
121 committee that is required to be reported to the State Election  
122 Commission or the Secretary of State as an expenditure  
123 pursuant to section five of this article or the rules of the State  
124 Election Commission or the Secretary of State promulgated  
125 pursuant to such provision: *Provided*, That independent  
126 expenditures by a party executive committee or caucus  
127 committee or a political action committee required to be  
128 reported pursuant to subsection (b), section two of this article  
129 are not exempt from the reporting requirements of this  
130 section;

131 (iii) A candidate debate or forum conducted pursuant to  
132 rules adopted by the State Election Commission or the  
133 Secretary of State or a communication promoting that debate  
134 or forum made by or on behalf of its sponsor;

135 (iv) A communication paid for by any organization  
136 operating under Section 501(c)(3) of the Internal Revenue  
137 Code of 1986;

138 (v) A communication made while the Legislature is in  
139 session which, incidental to promoting or opposing a specific  
140 piece of legislation pending before the Legislature, urges the  
141 audience to communicate with a member or members of the  
142 Legislature concerning that piece of legislation;

143 (vi) A statement or depiction by a membership  
144 organization, in existence prior to the date on which the  
145 individual named or depicted became a candidate, made in a  
146 newsletter or other communication distributed only to bona  
147 fide members of that organization;

148 (vii) A communication made solely for the purpose of  
149 attracting public attention to a product or service offered for  
150 sale by a candidate or by a business owned or operated by a  
151 candidate which does not mention an election, the office  
152 sought by the candidate or his or her status as a candidate; or

153 (viii) A communication, such as a voter's guide, which  
154 refers to all of the candidates for one or more offices, which  
155 contains no appearance of endorsement for or opposition to  
156 the nomination or election of any candidate and which is  
157 intended as nonpartisan public education focused on issues  
158 and voting history.

159 (12) "Expressly advocating" means any communication  
160 that:

161 (A) Use phrases such as "vote for the Governor," "re-  
elect your \_\_\_\_\_," "support the Democratic nominee for  
Supreme \_\_\_\_\_," "cast your ballot for the Republican  
challenge \_\_\_\_\_ of Delegates," "Smith for House," "Bob

165 Smith in '04," "vote Pro-Life" or "vote Pro-Choice"  
166 accompanied by a listing of clearly identified candidates  
167 described as Pro-Life or Pro-Choice, "vote against Old  
168 Hickory," "defeat" accompanied by a picture of one or more  
169 candidates, "reject the incumbent";

170 (B) Communications of campaign slogans or individual  
171 words, that can have no other reasonable meaning than to  
172 urge the election or defeat of one or more clearly identified  
173 candidates, such as posters, bumper stickers, advertisements,  
174 etc. , which say "Smith's the One," "Jones '06," "Baker", etc;  
175 or

176 (C) Is susceptible of no reasonable interpretation other  
177 than as an appeal to vote for or against a specific candidate.

178 (13) "Financial agent" means any individual acting for  
179 and by himself or herself, or any two or more individuals  
180 acting together or cooperating in a financial way to aid or  
181 take part in the nomination or election of any candidate for  
182 public office, or to aid or promote the success or defeat of  
183 any political party at any election.

184 (14) "Fund-raising event" means an event such as a  
185 dinner, reception, testimonial, cocktail party, auction or  
186 similar affair through which contributions are solicited or  
187 received by such means as the purchase of a ticket, payment  
188 of an attendance fee or by the purchase of goods or services.

189 (15) "Independent expenditure" means an expenditure by  
190 a person:

191 (A) Expressly advocating the election or defeat of a  
192 clearly identified candidate; and

193 (B) That is not made in concert or cooperation with or at  
194 the request or suggestion of such candidate, his or her agents,

195 the candidate’s authorized political committee or a political  
196 party committee or its agents.

197 Supporting or opposing the election of a clearly identified  
198 candidate includes supporting or opposing the candidates of  
199 a political party. An expenditure which does not meet the  
200 criteria for an independent expenditure is considered a  
201 contribution.

202 (16) “Membership organization” means a group that  
203 grants bona fide rights and privileges, such as the right to  
204 vote, to elect officers or directors and the ability to hold  
205 office, to its members and which uses a majority of its  
206 membership dues for purposes other than political purposes.  
207 “Membership organization” does not include organizations  
208 that grant membership upon receiving a contribution.

209 (17) “Name” means the full first name, middle name or  
210 initial, if any, and full legal last name of an individual and the  
211 full name of any association, corporation, committee or other  
212 organization of individuals, making the identity of any person  
213 who makes a contribution apparent by unambiguous  
214 reference.

215 (18) “Person” means an individual, corporation,  
216 partnership, committee, association and any other  
217 organization or group of individuals.

218 (19) “Political action committee” means a committee  
219 organized by one or more persons for the purpose of  
220 supporting or opposing the nomination or election of one or  
221 candidates. The following are types of political action  
222 committees:

- 223 (a) Temporary political action committee, a term
- 224 defined by
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225 (B) A membership organization, as that term is defined  
226 by subdivision(18) of this section;

227 (C) An unaffiliated political action committee, as that  
228 term is defined by subdivision (29) of this section.

229 (20) “Political committee” means any candidate  
230 committee, political action committee or political party  
231 committee.

232 (20) “Political party” means a political party as that term  
233 is defined by section eight, article one of this chapter or any  
234 committee established, financed, maintained or controlled by  
235 the party, including any subsidiary, branch or local unit  
236 thereof and including national or regional affiliates of the  
237 party.

238 (22) “Political party committee” means a committee  
239 established by a political party or political party caucus for  
240 the purposes of engaging in the influencing of the election,  
241 nomination or defeat of a candidate in any election.

242 (23) “Political purposes” means supporting or opposing  
243 the nomination, election or defeat of one or more candidates  
244 or the passage or defeat of a ballot issue, supporting the  
245 retirement of the debt of a candidate or political committee or  
246 the administration or activities of an established political  
247 party or an organization which has declared itself a political  
248 party and determining the advisability of becoming a  
249 candidate under the precandidacy financing provisions of this  
250 chapter.

251 (24) “Targeted to the relevant electorate” means a  
252 communication which refers to a clearly identified candidate  
253 for statewide office or the Legislature and which can be  
254 received by one hundred forty thousand or more individuals  
255 in the state in the case of a candidacy for statewide office,

256 eight thousand two hundred twenty or more individuals in the  
257 district in the case of a candidacy for the State Senate and  
258 two thousand four hundred ten or more individuals in the  
259 district in the case of a candidacy for the House of Delegates.

260 (25) "Two-year election cycle" means the twenty-four  
261 month period that begins the day after a general election and  
262 ends on the day of the subsequent general election.

263 (26) "Unaffiliated political action committee" means a  
264 political action committee that is not affiliated with a  
265 corporation or a membership organization.

**§3-8-2. Accounts for receipts and expenditures in elections;  
requirements for reporting independent  
expenditures.**

1 (a) Except for: (1) Candidates for party committeeman and  
2 committeewoman; and (2) federal committees required to file  
3 under the provisions of 2 U.S.C. §434, all candidates for  
4 nomination or election and all persons supporting, aiding or  
5 opposing the nomination, election or defeat of any candidate  
6 shall keep for a period of six months records of receipts and  
7 expenditures which are made for political purposes. All of  
8 the receipts and expenditures are subject to regulation by the  
9 provisions of this article. Verified financial statements of the  
10 records and expenditures shall be made and filed as public  
11 records by all candidates and by their financial agents,  
representatives or any person acting for and on behalf of any  
candidate and by the treasurers of all political party  
committees.

(b) (1) In addition to any other reporting required by the  
provisions of this chapter any person who makes  
independent expenditures in any aggregate amount or value in  
excess of \$1,000 during a calendar year shall file a disclosure

19 statement, on a form prescribed by the Secretary of State, that  
20 contains all of the following information:

21 (A) The name of (i) the person making the expenditure;  
22 (ii) the name of any person sharing or exercising direction or  
23 control over the activities of the person making the  
24 expenditure; and (iii) the name of the custodian of the books  
25 and accounts of the person making the expenditure;

26 (B) If the person making the expenditure is not an  
27 individual, the principal place of business of the partnership,  
28 corporation, committee, association, organization or group  
29 which made the expenditure;

30 (C) The amount of each expenditure of more than \$1,000  
31 made during the period covered by the statement and the  
32 name of the person to whom the expenditure was made;

33 (D) The elections to which the independent expenditure  
34 pertain, the names, if known, of the candidates referred to or  
35 to be referred to therein, whether the expenditure is intended  
36 to support or oppose the identified candidates and the amount  
37 of the total expenditure reported pursuant to paragraph (C) of  
38 this subdivision spent to support or oppose each of the  
39 identified candidates;

40 (E) The name and address of any person who contributed  
41 a total of more than \$250 between the first day of the  
42 preceding calendar year, and the disclosure date, and whose  
43 contributions were made for the purpose of furthering the  
44 expenditure.

45 (F) With regard to the contributors required to be listed  
46 pursuant to paragraph (E) of this subdivision, the statement  
47 shall also include:

48 (i) The month, day and year that the contributions of any  
49 single contributor exceeded \$250;

50 (ii) If the contributor is a political action committee, the  
51 name and address the political action committee registered  
52 with the Secretary of State, county clerk or municipal clerk;

53 (iii) If the contributor is an individual, the name and  
54 address of the individual, his or her occupation, the name and  
55 address of the individual's current employer, if any, or, if the  
56 individual is self-employed, the name and address of the  
57 individual's business, if any;

58 (iv) A description of the contribution, if other than  
59 money; and

60 (v) The value in dollars and cents of the contribution.

61 (G)(1) A certification that such independent expenditure  
62 was not made in cooperation, consultation, or concert, with,  
63 or at the request or suggestion of, any candidate or any  
64 authorized committee or agent of such candidate.

65 (2) Any person who makes a contribution for the purpose  
66 of funding an independent expenditure under this subsection  
67 shall, at the time the contribution is made, provide his or her  
68 name, address, occupation, his or her current employer, if  
69 any, or, if the individual is self-employed, the name of his or  
70 her business, if any, to the recipient of the contribution.

(3) The Secretary of State shall expeditiously prepare  
indices setting forth, on a candidate-by-candidate basis, all  
independent expenditures made by, or on behalf  
of, or for or against each candidate, as reported under this  
section for period establishing such indices on a  
or.

77 (c) (1) A person, including a political committee, who  
78 makes or contracts to make independent expenditures  
79 aggregating \$1,000 or more for any statewide, legislative or  
80 multi-county judicial candidate or \$500 or more for any  
81 county office, single-county judicial candidate, committee  
82 supporting or opposing a candidate on the ballot in more than  
83 one county, or any municipal candidate on a municipal  
84 election ballot, after the fifteenth day, but more than twelve  
85 hours, before the date of an election, shall file a report on a  
86 form prescribed by the Secretary of State, describing the  
87 expenditures within twenty-four hours: *Provided*, That a  
88 person making expenditures in the amount of \$1,000 or more  
89 for any statewide or legislative candidate on or after the  
90 fifteenth day but more than twelve hours before the day of  
91 any election shall report such expenditures in accordance  
92 with section two-b of this article and shall not file an  
93 additional report as provided herein.

94 (2) Any person who files a report under subdivision (1)  
95 of this subsection, shall file an additional report within  
96 twenty-four hours after each time the person makes or  
97 contracts to make independent expenditures aggregating an  
98 additional \$500 with respect to the same election, for any  
99 county office, single-county judicial candidate, committee  
100 supporting or opposing a candidate on the ballot in more than  
101 one county, or any municipal candidate on a municipal  
102 election ballot, as that to which the initial report relates.

103 (d) (1) A person, including a political committee, who  
104 makes or contracts to make independent expenditures  
105 aggregating \$10,000 or more at any time up to and including  
106 the fifteenth day before the date of an election shall file a  
107 report on a form prescribed by the Secretary of State,  
108 describing the expenditures within forty-eight hours.

109 (2) A person who files a report under subdivision (1) of  
110 this subsection, the person shall file an additional report

111 within forty-eight hours after each time the person makes or  
112 contracts to make independent expenditures aggregating an  
113 additional \$10,000 with respect to the same election as that  
114 to which the initial report relates.

115 (e) Any communication paid for by an independent  
116 expenditure must include a clear and conspicuous public  
117 notice that:

118 (1) Clearly states that the communication is not  
119 authorized by the candidate or the candidate's committee;  
120 and

121 (2) Clearly identifies the person making the expenditure:  
122 *Provided*, That if the communication appears on or is  
123 disseminated by broadcast, cable or satellite transmission, the  
124 statement required by this subsection must be both spoken  
125 clearly and appear in clearly readable writing at the end of the  
126 communication.

127 (f) Any person who has spent a total of \$5,000 or more  
128 for the direct costs of purchasing, producing or disseminating  
129 electioneering communications during any calendar year  
130 shall maintain all financial records and receipts related to  
131 such expenditure for a period of six months following the  
132 filing of a disclosure pursuant to subsection (a) of this section  
133 and, upon request, shall make such records and receipts  
134 available to the Secretary of State or county clerk for the  
135 purpose of an audit as provided in section seven of this  
136 article.

137 (g) Any person who willfully fails to comply with this  
138 provision is guilty of a misdemeanor and, upon conviction  
139 of, shall be fined not less than \$500, or confined in jail  
140 not more than one year, or both fined and confined.

141 (h) (1) Any person who is required to file a statement  
142 under this section may file the statement by facsimile device  
143 or electronic mail, in accordance with such rules as the  
144 Secretary of State may promulgate.

145 (2) The Secretary of State shall make any document filed  
146 electronically pursuant to this subsection accessible to the  
147 public on the internet not later than twenty-four hours after  
148 the document is received by the secretary.

149 (3) In promulgating a rule under this subsection, the  
150 secretary shall provide methods, other than requiring a  
151 signature on the document being filed, for verifying the  
152 documents covered by the rule. Any document verified  
153 under any of the methods shall be treated for all purposes,  
154 including penalties for perjury, in the same manner as a  
155 document verified by signature.

156 (i) This section does not apply to candidates for federal  
157 office.

158 (j) The Secretary of State may promulgate emergency and  
159 legislative rules, in accordance with the provisions of chapter  
160 twenty-nine-a of this code, to establish guidelines for the  
161 administration of this section.

**§3-8-8. Corporation contributions forbidden; exceptions;  
penalties; promulgation of rules; additional powers  
of State Election Commission.**

1 (a) An officer, agent or person acting on behalf of any  
2 corporation, whether incorporated under the laws of this or  
3 any other state or of a foreign country, may not pay, give,  
4 lend or authorize to be paid, any money or other thing of  
5 value belonging to the corporation to any candidate or  
6 candidate's campaign for nomination or election to any

7 statewide office or any other elective office in the state or any  
8 of its subdivisions.

9 (b) A person may not solicit or receive any payment,  
10 contribution or other thing from any corporation or from any  
11 officer, agent or other person acting on behalf of the  
12 corporation to any candidate or candidate's campaign for  
13 nomination or election to any statewide office or any other  
14 elective office in the state or any of its subdivisions.

15 (c)(1) The provisions of this section do not prohibit a  
16 corporation from soliciting, through any officer, agent or  
17 person acting on behalf of the corporation, contributions to a  
18 separate segregated fund to be used for political purposes.  
19 Any separate segregated fund is considered a political action  
20 committee for the purpose of this article and is subject to all  
21 reporting requirements applicable to political action  
22 committees;

23 (2) It is unlawful for:

24 (A) A corporation or separate segregated fund to make a  
25 primary or other election contribution or expenditure by  
26 using money or anything of value secured: (i) By physical  
27 force, job discrimination or financial reprisal; (ii) by the  
28 threat of force, job discrimination or financial reprisal; or (iii)  
29 as a condition of employment;

30 (B) Any person soliciting a stockholder or executive or  
31 administrative personnel and members of their families for a  
32 contribution to a corporation or separate segregated fund to  
33 fail to inform the person solicited of the political purposes of  
34 the separate segregated fund at the time of the solicitation;

35 (C) A corporation soliciting any other person for a  
36 contribution to a corporation or separate segregated fund to  
37 fail to inform the person solicited at the time of the

38 solicitation of his or her right to refuse to contribute without  
39 any reprisal;

40 (D) A separate segregated fund established by a  
41 corporation: (i) To solicit contributions to the fund from any  
42 person other than the corporation's stockholders and their  
43 families and its executive or administrative personnel and  
44 their families; or (ii) to contribute any corporate funds;

45 (E) A separate segregated fund established by a  
46 corporation to receive contributions to the fund from any  
47 person other than the corporation's stockholders and their  
48 immediate families and its executive or administrative  
49 personnel and their immediate families;

50 (F) A corporation to engage in job discrimination or to  
51 discriminate in job promotion or transfer because of an  
52 employee's failure to make a contribution to the corporation  
53 or a separate segregated fund;

54 (G) A separate segregated fund to make any contribution,  
55 directly or indirectly, in excess of \$1,000 in connection with  
56 or on behalf of any campaign for nomination or election to  
57 any elective office in the state or any of its subdivisions, or  
58 in connection with or on behalf of any committee or other  
59 organization or person engaged in furthering, advancing,  
60 supporting or aiding the nomination or election of any  
61 candidate for any such office;

62 (H) A corporation to pay, give or lend or to authorize  
63 payment, giving or lending of any moneys or other things of  
64 value belonging to the corporation to a separate segregated  
65 fund for the purpose of making a contribution to a candidate  
66 or a candidate's committee. This provision does not prohibit  
67 a separate segregated fund from using the property, real or  
68 personal, facilities and equipment of a corporation solely to  
69 establish, administer and solicit contributions to the fund,

70 subject to the rules of the State Election Commission as  
71 provided in subsection (d) of this section: *Provided*, That  
72 any such corporation shall also permit any group of its  
73 employees represented by a bona fide political action  
74 committee to use the real property of the corporation solely  
75 to establish, administer and solicit contributions to the fund  
76 of the political action committee, subject to the rules of the  
77 State Election Commission promulgated in accordance with  
78 said subsection.

79 (3) For the purposes of this section, the term “executive  
80 or administrative personnel” means individuals employed by  
81 a corporation who are paid on a salary rather than hourly  
82 basis and who have policy-making, managerial, professional  
83 or supervisory responsibilities.

84 (d) Any person or corporation violating any provision of  
85 this section is guilty of a misdemeanor and, upon conviction  
86 thereof, shall be fined not more than \$10,000. A corporation  
87 may not reimburse any person the amount of any fine  
88 imposed pursuant to this section.

89 (e) To ensure uniform administration and application of  
90 the provisions of this section and of those of the Federal  
91 Election Campaign Act Amendments of 1976 relating to  
92 corporate contributions, the State Election Commission shall  
93 propose rules for legislative approval in accordance with the  
94 provisions of article three, chapter twenty-nine-a of this code  
95 to implement the provisions of this section consistent, insofar  
96 as practicable, with the rules and regulations promulgated by  
97 the Federal Election Commission to carry out similar or  
98 identical provisions of 2 U.S.C. §441b.

99 (f) In addition to the powers and duties set forth in article  
100 three-a of this code, the State Election Commission has the  
101 following powers and duties:

102 (1) To investigate, upon complaint or on its own  
103 initiative, any alleged violations or irregularities of this  
104 article.

105 (2) To administer oaths and affirmations, issue subpoenas  
106 for the attendance of witnesses, issue subpoenas duces tecum  
107 to compel the production of books, papers, records and all  
108 other evidence necessary to any investigation.

109 (3) To involve the aid of any circuit court in the  
110 execution of its subpoena power.

111 (4) To report any alleged violations of this article to the  
112 appropriate prosecuting attorney having jurisdiction, which  
113 prosecuting attorney shall present to the grand jury such  
114 alleged violations, together with all evidence relating thereto,  
115 no later than the next term of court after receiving the report.

116 (g) The Attorney General shall, when requested, provide  
117 legal and investigative assistance to the State Election  
118 Commission.

119 (h) Any investigation, either upon complaint or initiative,  
120 shall be conducted in an executive session of the State  
121 Election Commission and shall remain undisclosed except  
122 upon an indictment by a grand jury.

123 (i) Any person who discloses the fact of any complaint,  
124 investigation or report or any part thereof, or any proceedings  
125 thereon, is guilty of a misdemeanor and, upon conviction  
126 thereof, shall be fined not less than \$1,000, nor more than  
127 \$5,000, and shall be confined in jail not less than six months  
128 nor more than one year.

129 (j) The amendments to this section enacted during the  
130 second extraordinary session of 2008 are intended to conform

131 to the existing proscription to constitutionally permissible  
132 limits and not to create a new offense or offenses.

133 (k) The effective date of the amendments to this section  
134 enacted during the second extraordinary legislative session of  
135 2008 is October 1, 2008.

**§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) A person may not publish, issue or circulate, or cause  
2 to be published, issued or circulated, any anonymous letter,  
3 circular, placard, radio or television advertisement or other  
4 publication supporting or aiding the election or defeat of a  
5 clearly identified candidate.

6 (b) An owner, publisher, editor or employee of a  
7 newspaper or other periodical may not insert, either in its  
8 advertising or reading columns, any matter, paid for or to be  
9 paid for, which tends to influence the voting at any election,  
10 unless directly designating it as a paid advertisement and  
11 stating the name of the person authorizing its publication and  
12 the candidate in whose behalf it is published.

(c) A person may not, 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 master or any other officer or employee of the federal government or officer or employee of the State, or a political subdivision of the State. An officer, agent, clerk or

22 employee of the federal government, or of this state, or any  
23 political subdivision of the state, who may have charge or  
24 control of any building, office or room, occupied for any  
25 official purpose, may not knowingly permit any person to  
26 enter any building, office or room, occupied for any official  
27 purpose for the purpose of soliciting or receiving any  
28 political assessments from, or delivering or giving written  
29 solicitations for, or any notice of, any political assessments  
30 to, any officer or employee of the state, or a political  
31 subdivision of the state.

32 (d) Except as provided in section eight of this article, a  
33 person entering into any contract with the state or its  
34 subdivisions, or any department or agency of the state, either  
35 for rendition of personal services or furnishing any material,  
36 supplies or equipment or selling any land or building to the  
37 state, or its subdivisions, or any department or agency of the  
38 state, if payment for the performance of the contract or  
39 payment for the material, supplies, equipment, land or  
40 building is to be made, in whole or in part, from public funds  
41 may not, during the period of negotiation for or performance  
42 under the contract or furnishing of materials, supplies,  
43 equipment, land or buildings, directly or indirectly, make any  
44 contribution to any political party, committee or candidate for  
45 public office or to any person for political purposes or use;  
46 nor may any person or firm solicit any contributions for any  
47 purpose during any period.

48 (e) A person may not, directly or indirectly, promise any  
49 employment, position, work, compensation or other benefit  
50 provided for, or made possible, in whole or in part, by act of  
51 the Legislature, to any person as consideration, favor or  
52 reward for any political activity for the support of or  
53 opposition to any candidate, or any political party in any  
54 election.

55 (f) Except as provided in section eight of this article, a  
56 person may not, directly or indirectly, make any contribution  
57 in excess of the value of \$1,000 in connection with any  
58 campaign for nomination or election to or on behalf of any  
59 statewide office, in connection with any other campaign for  
60 nomination or election to or on behalf of any other elective  
61 office in the state or any of its subdivisions, or in connection  
62 with or on behalf of any person engaged in furthering,  
63 advancing, supporting or aiding the nomination or election of  
64 any candidate for any of the offices.

65 (g) A political organization (as defined in Section  
66 527(e)(1) of the Internal Revenue Code of 1986) may not  
67 solicit or accept contributions until it has notified the  
68 Secretary of State of its existence and of the purposes for  
69 which it was formed. During the two-year election cycle, a  
70 political organization (as defined in Section 527 (e) (1) of the  
71 Internal Revenue Code of 1986) may not accept contributions  
72 totaling more than \$1,000 from any one person prior to the  
73 primary election and contributions totaling more than \$1,000  
74 from any one person after the primary and before the general  
75 election.

76 (h) It is unlawful for any person to create, establish or  
77 organize more than one political organization (as defined in  
78 Section 527(e)(1) of the Internal Revenue Code of 1986) with  
79 the intent to avoid or evade the contribution limitations  
80 contained in subsection (g) of this section.

81 (i) Notwithstanding the provisions of subsection (f) of  
82 this section to the contrary, a person may not, directly or  
83 indirectly, make contributions to a state party executive  
84 committee or state party legislative caucus committee which,  
85 in aggregate, exceed the value of \$1,000 in any calendar  
86 year.

87 (j) The limitations on contributions contained in this  
88 section do not apply to transfers between and among a state  
89 party executive committee or a state party's legislative  
90 caucus political committee from national committees of the  
91 same political party: *Provided*, That transfers permitted by  
92 this subsection may not exceed \$50,000 in the aggregate in  
93 any calendar year to any state party executive committee or  
94 state party legislative caucus political committee: *Provided*,  
95 *however*, That the moneys transferred may only be used for  
96 voter registration and get-out-the-vote activities of the state  
97 committees.

98 (k) A person may not solicit any contribution, other than  
99 contributions to a campaign for or against a county or local  
100 government ballot issue, from any nonelective salaried  
101 employee of the state government or of any of its  
102 subdivisions: *Provided*, That in no event may any person  
103 acting in a supervisory role solicit a person who is a  
104 subordinate employee for any contribution. A person may  
105 not coerce or intimidate any nonelective salaried employee  
106 into making a contribution. a person may not coerce or  
107 intimidate any nonsalaried employee of the state government  
108 or any of its subdivisions into engaging in any form of  
109 political activity. The provisions of this subsection may not  
110 be construed to prevent any employee from making a  
111 contribution or from engaging in political activity voluntarily  
112 without coercion, intimidation or solicitation.

113 (l) A person may not solicit a contribution from any other  
114 person without informing the other person at the time of the  
115 solicitation of the amount of any commission, remuneration  
116 or other compensation that the solicitor or any other person  
117 will receive or expect to receive as a direct result of the  
118 contribution being successfully collected. Nothing in this  
119 subsection may be construed to apply to solicitations of  
120 contributions made by any person serving as an unpaid  
121 volunteer.

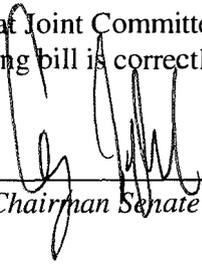
122 (m) A person may not place any letter, circular, flyer,  
123 advertisement, election paraphernalia, solicitation material or  
124 other printed or published item tending to influence voting at  
125 any election in a roadside receptacle unless it is: (1)  
126 Approved for placement into a roadside receptacle by the  
127 business or entity owning the receptacle; and (2) contains a  
128 written acknowledgment of the approval. This subdivision  
129 does not apply to any printed material contained in a  
130 newspaper or periodical published or distributed by the  
131 owner of the receptacle. The term "roadside receptacle"  
132 means any container placed by a newspaper or periodical  
133 business or entity to facilitate home or personal delivery of a  
134 designated newspaper or periodical to its customers.

135 (n) Any person violating any provision of this section is  
136 guilty of a misdemeanor and, upon conviction thereof, shall  
137 be fined not more than \$1,000, or confined in jail for not  
138 more than one year, or, both fined and confined.

139 (o) The provisions of subsection (k) of this section,  
140 permitting contributions to a campaign for or against a  
141 county or local government ballot issue shall become  
142 operable on and after January 1, 2005.

143 (p) The limitations on contributions established by  
144 subsection (g) of this section do not apply to contributions  
145 made for the purpose of supporting or opposing a ballot  
146 issue, including a constitutional amendment.

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

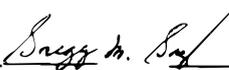
  
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Chairman Senate Committee

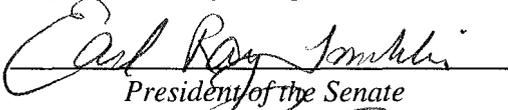
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

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

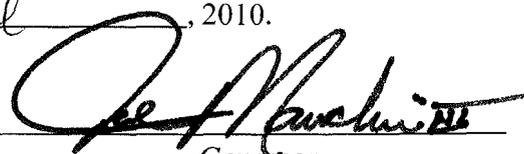
  
\_\_\_\_\_  
Clerk of the House of Delegates

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

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

2010 APR -1 PM 4:22  
OFFICE OF THE CLERK OF THE SENATE

The within is approved this the 18<sup>th</sup>  
day of April, 2010.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 9 1 2010

Time 3:50 pm