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That §3-9-14 of the Code of West Virginia, 1931, as amended, be repealed; that §3-8-1, §3-8-1a, §3-8-2, §3-8-8 and §3-8-12 of said code be amended and reenacted, all to read as follows: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

(a) The Legislature finds that:

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

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

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

4. Disclosure provisions are appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions, and the ceilings imposed accordingly serve the basic governmental interest in safeguarding the integrity of the electoral process without dampening the rights of individual citizens and encouraging political debate and discussion.
(5) Disclosure of expenditures serve a substantial governmental interest in informing the electorate and preventing the corruption of the political process.

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

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

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

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

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

(11) Non-broadcast media communications in the final 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
campaigns in the final days of a campaign may at least permit
voters to evaluate the credibility of the message.

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

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

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

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

80 (17) Identification of persons or entities funding political
advertisements assists in enforcement of the contribution and
expenditure limitations established by this article and simply
permits voters of the actual identities of persons or entities
affecting the election or defeat of candidates.
Identification of persons or entities funding political advertisements allows voters to evaluate the credibility of the message contained in the advertisement.

Disclosure of the identity of persons or entities funding political communications regarding candidates bolsters the right of listeners to be fully informed.

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

§3-8-1a. Definitions.

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

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

2. “Broadcast, cable or satellite communication” means a communication that is publicly distributed by a television station, radio station, cable television system or satellite system.

3. “Candidate” means an individual who:

   (A) Has filed a certificate of announcement under section seven, article five of this chapter or a municipal charter:
15 (B) Has filed a declaration of candidacy under section 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 publicly declared his or her intention to seek nomination or election for any state, district, county or municipal office or party office to be filled at any primary, general or special election.

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

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

(6) "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or not, enforceable or a transfer of money or other thing of value by a person, made for the purpose of influencing the nomination, election or defeat of a candidate.
An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation. Provided, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

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

(8) "Direct costs of purchasing, producing or disseminating electioneering communications" means:

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

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

(9) "Disclosure date" means either of the following:

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

(B) Any other date during that calendar year after any previous disclosure date on which the person has made
additional expenditures totaling $5,000 or more for the direct costs of purchasing, producing or disseminating electioneering communications.

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

(11) (A) “Electioneering communication” means any paid communication made by broadcast, cable or satellite signal, or published in any newspaper, magazine or other periodical that:

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

(ii) Is publicly disseminated within:

(I) Thirty days before a primary election at which the nomination for office sought by the candidate is to be 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 this article are effective October 1, 2008.

B) “Electioneering communication” does not include:
(i) A news story, commentary or editorial disseminated through the facilities of any broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical publication not owned or controlled by a political party, political committee or candidate: Provided, That a news story disseminated through a medium owned or controlled by a political party, political committee or candidate is nevertheless exempt if the news is:

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

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

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

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;
(iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;

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

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

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

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

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

(A) Uses 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
Smith in ‘04,” “vote Pro-Life” or “vote Pro-Choice” accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, “vote against Old Hickory,” “defeat” accompanied by a picture of one or more candidates, “reject the incumbent”;

(B) Communications of campaign slogans or individual words, that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say “Smith’s the One,” “Jones ‘06,” “Baker”, etc; or

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

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

(14) “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.

(15) “Independent expenditure” means an expenditure by a person:

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

(B) That is not made in concert or cooperation with or at the request or suggestion of such candidate, his or her agents,
the candidate’s authorized political committee or a political party committee or its agents.

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

(16) “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. “Membership organization” does not include organizations that grant membership upon receiving a contribution.

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

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

(19) “Political action committee” means a committee authorized by one or more persons for the purpose of supporting or opposing the nomination or election of one or more candidates. The following types of political action committees:

- Committee, a permanent political action committee;
(B) A membership organization, as that term is defined by subdivision (18) of this section;

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

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

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

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

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

(24) “Targeted to the relevant electorate” means a communication which refers to a clearly identified candidate for statewide office or the Legislature and which can be received by one hundred forty thousand or more individuals in the state in the case of a candidacy for statewide office,
eight thousand two hundred twenty or more individuals in the
district in the case of a candidacy for the State Senate and
two thousand four hundred ten or more individuals in the
district in the case of a candidacy for the House of Delegates.

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

(26) “Unaffiliated political action committee” means a
political action committee that is not affiliated with a
corporation or a membership organization.

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

(a) Except for: (1) Candidates for partycommitteeman and
committeewoman; and (2) federal committees required to file
under the provisions of 2 U.S.C.§434, all candidates for
nomination or election and all persons supporting, aiding or
opposing the nomination, election or defeat of any candidate
shall keep for a period of six months records of receipts and
expenditures which are made for political purposes. All of
the receipts and expenditures are subject to regulation by the
provisions of this article. Verified financial statements of the
records and expenditures shall be made and filed as public
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 an aggregate amount or value in
excess of $1,000 during a calendar year shall file a disclosure
statement, on a form prescribed by the Secretary of State, that contains all of the following information:

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

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

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

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

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

(F) With regard to the contributors required to be listed pursuant to paragraph (E) of this subdivision, the statement shall also include:
(i) The month, day and year that the contributions of any single contributor exceeded $250;

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

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

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

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

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

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

(3) The Secretary shall expeditiously prepare indices setting forth, on a state-by-candidate basis, all independent expenditure, made by, or on behalf of, or for, or against each candidate, as reported under this subsection for period.
(c) (1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating $1,000 or more for any statewide, legislative or multi-county judicial candidate or $500 or more for any county office, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, after the fifteenth day, but more than twelve hours, before the date of an election, shall file a report on a form prescribed by the Secretary of State, describing the expenditures within twenty-four hours: Provided, That a person making expenditures in the amount of $1,000 or more for any statewide or legislative candidate on or after the fifteenth day but more than twelve hours before the day of any election shall report such expenditures in accordance with section two-b of this article and shall not file an additional report as provided herein.

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

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

(2) A person who files a report under subdivision (1) of this subsection, the person shall file an additional report
within forty-eight hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

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

(1) Clearly states that the communication is not authorized by the candidate or the candidate’s committee; and

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

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

(g) Any person who willfully fails to comply with this provision is guilty of a misdemeanor and, upon conviction of, shall be fined not less than $500, or confined in jail not more than one year, or both fined and confined.
(h) (1) Any person who is required to file a statement under this section may file the statement by facsimile device or electronic mail, in accordance with such rules as the Secretary of State may promulgate.

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

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

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

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

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

(a) An officer, agent or person acting on behalf of any corporation, whether incorporated under the laws of this or any other state or of a foreign country, may not pay, give, lend or authorize to be paid, any money or other thing of value belonging to the corporation to any candidate or candidate's campaign for nomination or election to any
A person may not solicit or receive any payment, contribution or other thing from any corporation or from any officer, agent or other person acting on behalf of the corporation to any candidate or candidate’s campaign for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

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

(2) It is unlawful for:

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

(B) Any person soliciting a stockholder or executive or administrative personnel and members of their families for a contribution to a corporation or separate segregated fund to be used for political purposes of a separate segregated fund at the time of the solicitation;

(C) Any person soliciting any other person for a contribution to a corporation or separate segregated fund to be used for political purposes of a separate segregated fund at the time of the solicitation;
solicitation of his or her right to refuse to contribute without any reprisal;

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

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

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

(G) A separate segregated fund to make any contribution, directly or indirectly, in excess of $1,000 in connection with or on behalf of any campaign for nomination or election to any 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, supporting or aiding the nomination or election of any candidate for any such office;

(H) A corporation to pay, give or lend or to authorize payment, giving or lending of any moneys or other things of value belonging to the corporation to a separate segregated fund for the purpose of making a contribution to a candidate or a candidate’s committee. This provision does not prohibit a separate segregated fund from using the property, real or personal, facilities and equipment of a corporation solely to establish, administer and solicit contributions to the fund,
subject to the rules of the State Election Commission as
provided in subsection (d) of this section: Provided, That
any such corporation shall also permit any group of its
employees represented by a bona fide political action
commitee' to use the real property of the corporation solely
to establish, administer and solicit contributions to the fund
of the political action committee, subject to the rules of the
State Election Commission promulgated in accordance with
said subsection.

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

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

(e) To ensure uniform administration and application of
the provisions of this section and of those of the Federal
Election Campaign Act Amendments of 1976 relating to
corporate contributions, the State Election Commission shall
propose rules for legislative approval in accordance with the
provisions of article three, chapter twenty-nine-a of this code
to implement the provisions of this section consistent, insofar
as practicable, with the rules and regulations promulgated by
c the Federal Election Commission to carry out similar or

(f) In addition to the powers and duties set forth in article
twenty-nine-a of this chapter, the State Election Commission has the
following power and duties.
(1) To investigate, upon complaint or on its own initiative, any alleged violations or irregularities of this article.

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

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

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

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

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

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

(j) The amendments to this section enacted during the second extraordinary session of 2008 are intended to conform
to the existing proscription to constitutionally permissible limits and not to create a new offense or offenses.

(k) The effective date of the amendments to this section enacted during the second extraordinary legislative session of 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.

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

(b) An owner, publisher, editor or employee of a newspaper or other periodical may not 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) 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, or by any agent, master or any other officer or employee of the前所未有, or any other officer or employee of the State, or a political purpose. An 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 not 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, a
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 not, 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) A person may not, 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) Except as provided in section eight of this article, a person may not, directly or indirectly, make any contribution in excess of the value of $1,000 in connection with any campaign for nomination or election to or on behalf of any statewide office, 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 person engaged in furthering, advancing, supporting or aiding the nomination or election of any candidate for any of the offices.

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

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

(i) Notwithstanding the provisions of subsection (f) of this section to the contrary, a person may not, 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 $1,000 in any calendar year.
(j) 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 $50,000 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.

(k) A person may not 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 may any person acting in a supervisory role solicit a person who is a subordinate employee for any contribution. A person may not coerce or intimidate any nonelective salaried employee into making a contribution. A person may not 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.

(l) A person may not solicit a contribution from any other person without informing the other person at the time of the solicitation of the amount of any commission, remuneration 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.
(m) A person may not place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material 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 contained in a newspaper or periodical published or distributed 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.

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

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

(p) The limitations on contributions established by subsection (g) of this section do not apply to contributions made for the purpose of supporting or opposing a ballot issue, including a constitutional amendment.
Therefore the Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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

The within is approved this the ___ day of April, 2010.

Governor
PRESENTED TO THE GOVERNOR

MAR 31 2019

Time 3:50