

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 88**

4 (By Senators Green, Miller, Sypolt and McCabe)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported March 27, 2013.]
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11 A BILL to amend and reenact §3-8-12 of the Code of West Virginia,
12 1931, as amended; and to amend said code by adding thereto a
13 new section, designated §6B-3-8a, all relating to
14 contributions by lobbyists to political candidates;
15 prohibiting lobbyists from making campaign contributions to
16 certain persons during the sixty-day period of the regular
17 session; prohibiting certain persons from accepting campaign
18 contributions from registered lobbyists during the sixty-day
19 period of the regular session; removing outdated language in
20 code; and clarifying prohibitions on solicitation of certain
21 things of value.

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

23 That §3-8-2 of the Code of West Virginia, 1931, as amended, be
24 amended and reenacted; and that said code be amended by adding
25 thereto a new section, designated §6B-3-8a, all to read as follows:

26 **CHAPTER 3. ELECTIONS.**

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

2 **§3-8-12. Additional acts forbidden; circulation of written matter;**
3 **newspaper advertising; solicitation of contributions;**
4 **intimidation and coercion of employees; promise of**
5 **employment or other benefits; limitations on**
6 **contributions; public contractors; penalty.**

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

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

19 (c) A person may not, in any room or building occupied for the
20 discharge of official duties by any officer or employee of the
21 state or a political subdivision of the state, solicit orally or by
22 written communication delivered within the room or building, or in
23 any other manner, any contribution of money or other tangible thing
24 of value for any party or political purpose, from any postmaster or
25 any other officer or employee of the federal government, or officer
26 or employee of the State, or a political subdivision of the State.

1 An officer, agent, clerk or employee of the federal government, or
2 of this state, or any political subdivision of the state, who may
3 have charge or control of any building, office or room, occupied
4 for any official purpose, may not knowingly permit any person to
5 enter any building, office or room, occupied for any official
6 purpose for the purpose of soliciting or receiving any political
7 assessments from, or delivering or giving written solicitations
8 for, or any notice of, any political assessments to, any officer or
9 employee of the state, or a political subdivision of the state.

10 (d) Except as provided in section eight of this article, a
11 person entering into any contract with the state or its
12 subdivisions, or any department or agency of the state, either for
13 rendition of personal services or furnishing any material, supplies
14 or equipment or selling any land or building to the state, or its
15 subdivisions, or any department or agency of the state, if payment
16 for the performance of the contract or payment for the material,
17 supplies, equipment, land or building is to be made, in whole or in
18 part, from public funds may not, during the period of negotiation
19 for or performance under the contract or furnishing of materials,
20 supplies, equipment, land or buildings, directly or indirectly,
21 make any contribution to any political party, committee or
22 candidate for public office or to any person for political purposes
23 or use; nor may any person or firm solicit any contributions for
24 any purpose during any period.

25 (e) A person may not, directly or indirectly, promise any
26 employment, position, work, compensation or other benefit provided

1 for, or made possible, in whole or in part, by act of the
2 Legislature, to any person as consideration, favor or reward for
3 any political activity for the support of or opposition to any
4 candidate, or any political party in any election.

5 (f) Except as provided in section eight of this article, a
6 person may not, directly or indirectly, make any contribution in
7 excess of the value of \$1,000 in connection with any campaign for
8 nomination or election to or on behalf of any statewide office, in
9 connection with any other campaign for nomination or election to or
10 on behalf of any other elective office in the state or any of its
11 subdivisions, or in connection with or on behalf of any person
12 engaged in furthering, advancing, supporting or aiding the
13 nomination or election of any candidate for any of the offices.

14 (g) A political organization (as defined in Section 527(e)(1)
15 of the Internal Revenue Code of 1986) may not solicit or accept
16 contributions until it has notified the Secretary of State of its
17 existence and of the purposes for which it was formed. During the
18 two-year election cycle, a political organization (as defined in
19 Section 527 (e) (1) of the Internal Revenue Code of 1986) may not
20 accept contributions totaling more than \$1,000 from any one person
21 prior to the primary election and contributions totaling more than
22 \$1,000 from any one person after the primary and before the general
23 election.

24 (h) It is unlawful for any person to create, establish or
25 organize more than one political organization (as defined in
26 Section 527(e)(1) of the Internal Revenue Code of 1986) with the

1 intent to avoid or evade the contribution limitations contained in
2 subsection (g) of this section.

3 (i) Notwithstanding the provisions of subsection (f) of this
4 section to the contrary, a person may not, directly or indirectly,
5 make contributions to a state party executive committee or state
6 party legislative caucus committee which, in the aggregate, exceed
7 the value of \$1,000 in any calendar year.

8 (j) The limitations on contributions contained in this section
9 do not apply to transfers between and among a state party executive
10 committee or a state party's legislative caucus political committee
11 from national committees of the same political party: *Provided,*
12 That transfers permitted by this subsection may not exceed \$50,000
13 in the aggregate in any calendar year to any state party executive
14 committee or state party legislative caucus political committee:
15 *Provided, however,* That the moneys transferred may only be used for
16 voter registration and get-out-the-vote activities of the state
17 committees.

18 (k) A person may not solicit any contribution, other than
19 contributions to a campaign for or against a county or local
20 government ballot issue, from any nonelective salaried employee of
21 the state government or of any of its subdivisions: *Provided,* That
22 in no event may any person acting in a supervisory role solicit a
23 person who is a subordinate employee for any contribution. A
24 person may not coerce or intimidate any nonelective salaried
25 employee into making a contribution. A person may not coerce or
26 intimidate any nonsalaried employee of the state government or any

1 of its subdivisions into engaging in any form of political
2 activity. The provisions of this subsection may not be construed
3 to prevent any employee from making a contribution or from engaging
4 in political activity voluntarily without coercion, intimidation or
5 solicitation.

6 (l) A person may not solicit a contribution from any other
7 person without informing the other person at the time of the
8 solicitation of the amount of any commission, remuneration or other
9 compensation that the solicitor or any other person will receive or
10 expect to receive as a direct result of the contribution being
11 successfully collected. Nothing in this subsection may be
12 construed to apply to solicitations of contributions made by any
13 person serving as an unpaid volunteer.

14 (m) A person may not place any letter, circular, flyer,
15 advertisement, election paraphernalia, solicitation material or
16 other printed or published item tending to influence voting at any
17 election in a roadside receptacle unless it is: (1) Approved for
18 placement into a roadside receptacle by the business or entity
19 owning the receptacle; and (2) contains a written acknowledgment of
20 the approval. This subdivision does not apply to any printed
21 material contained in a newspaper or periodical published or
22 distributed by the owner of the receptacle. The term "roadside
23 receptacle" means any container placed by a newspaper or periodical
24 business or entity to facilitate home or personal delivery of a
25 designated newspaper or periodical to its customers.

26 (n) Notwithstanding any provision of code to the contrary,

1 members of the Legislature and persons who have filed an official
2 certificate of announcement or formal pre-candidacy announcement to
3 be a candidate for the Legislature may not accept campaign
4 contributions during the sixty days of the regular session of the
5 Legislature from any person who is registered as a lobbyist
6 pursuant to article three, chapter six-b of this code.

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

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

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

19 **CHAPTER 6B. PUBLIC OFFICERS AND EMPLOYEES; ETHICS;**

20 **CONFLICTS OF INTEREST; FINANCIAL DISCLOSURE.**

21 **ARTICLE 3. LOBBYISTS.**

22 **§6B-3-8a. Prohibition on certain campaign donations.**

23 A registered lobbyist may not make or promise to make a
24 campaign contribution to or solicit or promise to solicit a
25 campaign contribution during the sixty days of the regular session
26 of the Legislature for (a) a member of the Legislature, (b) a

1 person who has filed an official certificate of announcement or
2 formal pre-candidacy announcement to be a candidate for the
3 Legislature or (c) a person who has filed a formal pre-candidacy
4 announcement for undeclared office.