

1 **Senate Bill No. 88**

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

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4 [Introduced February 13, 2013; referred to the Committee on the  
5 Judiciary; and then to the Committee on Finance.]

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10 A BILL to amend and reenact §3-8-2 of the Code of West Virginia,  
11 1931, as amended, relating to regulation and control of  
12 elections; and prohibiting fundraising by members of the  
13 Legislature during the sixty-day period of the regular  
14 session.

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

16 That §3-8-2 of the Code of West Virginia, 1931, as amended, be  
17 amended and reenacted to read as follows:

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

19 **§3-8-2. Accounts for receipts and expenditures in elections;  
20 requirements for reporting independent expenditures;  
21 when fund raising prohibited by members of Legislature.**

22 (a) Except for: (1) Candidates for party committeeman and

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

13 (b) (1) In addition to any other reporting required by the  
14 provisions of this chapter, any person who makes independent  
15 expenditures in an aggregate amount or value in excess of \$1,000  
16 during a calendar year shall file a disclosure statement, on a form  
17 prescribed by the Secretary of State, that contains all of the  
18 following information:

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

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

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

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

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

19 (F) With regard to the contributors required to be listed  
20 pursuant to paragraph (E) of this subdivision, the statement shall  
21 also include:

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

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

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

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

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

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

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

22 (3) The Secretary of State shall expeditiously prepare indices  
23 setting forth, on a candidate-by-candidate basis, all independent

1 expenditures separately, made by, or on behalf of, or for, or  
2 against each candidate, as reported under this subsection, and for  
3 periodically publishing such indices on a timely preelection basis.

4 (c) (1) A person, including a political committee, who makes  
5 or contracts to make independent expenditures aggregating \$1,000 or  
6 more for any statewide, legislative or multicounty judicial  
7 candidate or \$500 or more for any county office, single-county  
8 judicial candidate, committee supporting or opposing a candidate on  
9 the ballot in more than one county, or any municipal candidate on  
10 a municipal election ballot, after the fifteenth day, but more than  
11 twelve hours, before the date of an election, shall file a report  
12 on a form prescribed by the Secretary of State, describing the  
13 expenditures within twenty-four hours: *Provided*, That a person  
14 making expenditures in the amount of \$1,000 or more for any  
15 statewide or legislative candidate on or after the fifteenth day  
16 but more than twelve hours before the day of any election shall  
17 report such expenditures in accordance with section two-b of this  
18 article and shall not file an additional report as provided herein.

19 (2) Any person who files a report under subdivision (1) of  
20 this subsection, shall file an additional report within twenty-four  
21 hours after each time the person makes or contracts to make  
22 independent expenditures aggregating an additional \$500 with  
23 respect to the same election, for any county office, single-county

1 judicial candidate, committee supporting or opposing a candidate on  
2 the ballot in more than one county, or any municipal candidate on  
3 a municipal election ballot, as that to which the initial report  
4 relates.

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

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

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

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

21 (2) Clearly identifies the person making the expenditure:  
22 *Provided*, That if the communication appears on or is disseminated  
23 by broadcast, cable or satellite transmission, the statement

1 required by this subsection must be both spoken clearly and appear  
2 in clearly readable writing at the end of the communication.

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

12       (g) Any person who willfully fails to comply with this section  
13 is guilty of a misdemeanor and, upon conviction thereof, shall be  
14 fined not less than \$500, or confined in jail for not more than one  
15 year, or both fined and confined.

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

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

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

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

9       (j) Notwithstanding any provision of this article or any other  
10 provision of law to the contrary, members of the Legislature may  
11 not participate in any fund raising effort during the sixty days of  
12 the regular session of the Legislature.

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

NOTE: The purpose of this bill is to prohibit fund raising by members of the Legislature during the sixty-day period of the regular session of the Legislature.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.