

1 **Senate Bill No. 28**

2 (By Senators Green and McCabe)

3 _____
4 [Introduced January 8, 2014; referred to the Committee on the
5 Judiciary; and then to the Committee on Finance.]

6 _____
7 **FISCAL**
8 **NOTE**
9

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19 session; removing outdated language in code; clarifying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

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

23 That §3-8-12 of the Code of West Virginia, 1931, as amended,

1 be amended and reenacted; and that said code be amended by adding
2 thereto a new section, designated §6B-3-8a, all to read as follows:

3 **CHAPTER 3. ELECTIONS.**

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

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

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

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

22 (c) A person may not, in any room or building occupied for the

1 discharge of official duties by any officer or employee of the
2 state or a political subdivision of the state, solicit orally or by
3 written communication delivered within the room or building, or in
4 any other manner, any contribution of money or other tangible thing
5 of value for any party or political purpose, from any postmaster or
6 any other officer or employee of the federal government, or officer
7 or employee of the state, or a political subdivision of the state.
8 An officer, agent, clerk or employee of the federal government, or
9 of this state, or any political subdivision of the state, who may
10 have charge or control of any building, office or room, occupied
11 for any official purpose, may not knowingly permit any person to
12 enter any building, office or room, occupied for any official
13 purpose for the purpose of soliciting or receiving any political
14 assessments from, or delivering or giving written solicitations
15 for, or any notice of, any political assessments to, any officer or
16 employee of the state, or a political subdivision of the state.

17 (d) Except as provided in section eight of this article, a
18 person entering into any contract with the state or its
19 subdivisions, or any department or agency of the state, either for
20 rendition of personal services or furnishing any material, supplies
21 or equipment or selling any land or building to the state, or its
22 subdivisions, or any department or agency of the state, if payment
23 for the performance of the contract or payment for the material,

1 supplies, equipment, land or building is to be made, in whole or in
2 part, from public funds may not, during the period of negotiation
3 for or performance under the contract or furnishing of materials,
4 supplies, equipment, land or buildings, directly or indirectly,
5 make any contribution to any political party, committee or
6 candidate for public office or to any person for political purposes
7 or use; nor may any person or firm solicit any contributions for
8 any purpose during any period.

9 (e) A person may not, directly or indirectly, promise any
10 employment, position, work, compensation or other benefit provided
11 for, or made possible, in whole or in part, by act of the
12 Legislature, to any person as consideration, favor or reward for
13 any political activity for the support of or opposition to any
14 candidate, or any political party in any election.

15 (f) Except as provided in section eight of this article, a
16 person may not, directly or indirectly, make any contribution in
17 excess of the value of \$1,000 in connection with any campaign for
18 nomination or election to or on behalf of any statewide office, in
19 connection with any other campaign for nomination or election to or
20 on behalf of any other elective office in the state or any of its
21 subdivisions, or in connection with or on behalf of any person
22 engaged in furthering, advancing, supporting or aiding the
23 nomination or election of any candidate for any of the offices.

1 (g) A political organization (as defined in Section 527(e) (1)
2 of the Internal Revenue Code of 1986) may not solicit or accept
3 contributions until it has notified the Secretary of State of its
4 existence and of the purposes for which it was formed. During the
5 two-year election cycle, a political organization (as defined in
6 Section 527 (e) (1) of the Internal Revenue Code of 1986) may not
7 accept contributions totaling more than \$1,000 from any one person
8 prior to the primary election and contributions totaling more than
9 \$1,000 from any one person after the primary and before the general
10 election.

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

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

21 (j) The limitations on contributions contained in this section
22 do not apply to transfers between and among a state party executive
23 committee or a state party's legislative caucus political committee

1 from national committees of the same political party: *Provided,*
2 That transfers permitted by this subsection may not exceed \$50,000
3 in the aggregate in any calendar year to any state party executive
4 committee or state party legislative caucus political committee:
5 *Provided, however,* That the moneys transferred may only be used for
6 voter registration and get-out-the-vote activities of the state
7 committees.

8 (k) A person may not solicit any contribution, other than
9 contributions to a campaign for or against a county or local
10 government ballot issue, from any nonelective salaried employee of
11 the state government or of any of its subdivisions: *Provided,* That
12 in no event may any person acting in a supervisory role solicit a
13 person who is a subordinate employee for any contribution. A
14 person may not coerce or intimidate any nonelective salaried
15 employee into making a contribution. A person may not coerce or
16 intimidate any nonsalaried employee of the state government or any
17 of its subdivisions into engaging in any form of political
18 activity. The provisions of this subsection may not be construed
19 to prevent any employee from making a contribution or from engaging
20 in political activity voluntarily without coercion, intimidation or
21 solicitation.

22 (l) A person may not solicit a contribution from any other
23 person without informing the other person at the time of the

1 solicitation of the amount of any commission, remuneration or other
2 compensation that the solicitor or any other person will receive or
3 expect to receive as a direct result of the contribution being
4 successfully collected. Nothing in this subsection may be
5 construed to apply to solicitations of contributions made by any
6 person serving as an unpaid volunteer.

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

19 (n) Notwithstanding any provision of this code to the
20 contrary, members of the Legislature and persons who have filed
21 official certificates of announcement or formal precandidacy
22 announcement to be candidates for the Legislature may not accept
23 campaign contributions during the sixty days of the regular session

1 of the Legislature from any person who is registered as a lobbyist
2 pursuant to article three, chapter six-b of this code.

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

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

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

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

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

17 **ARTICLE 3. LOBBYISTS.**

18 **§6B-3-8a. Prohibition on certain campaign donations.**

19 A registered lobbyist may not make or promise to make a
20 campaign contribution to or solicit or promise to solicit a
21 campaign contribution during the sixty days of the regular session
22 of the Legislature for: (1) A member of the Legislature; (2) a
23 person who has filed an official certificate of announcement or

1 formal precandidacy announcement to be a candidate for the
2 Legislature; or (3) a person who has filed a formal precandidacy
3 announcement for undeclared office.

NOTE: The purpose of this bill is to prohibit lobbyists from making campaign contributions to certain persons during the sixty-day period of the regular legislative session. The bill prohibits certain persons from accepting campaign contributions from registered lobbyists during the sixty-day period of the regular legislative session. The bill creates criminal penalties. The bill also removes outdated language and clarifies prohibitions on solicitation of certain things of value.

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

§6B-3-8a is new; therefore, strike-throughs and underscoring have been omitted.