

H. B. 2022

(By Delegate Lane)

[Introduced January 14, 2015; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended, relating to prohibiting certain political fundraising activities for members of the Legislature during certain periods of time before, during and after the Legislature is in session; and providing that existing misdemeanor penalties apply.

Be it enacted by the Legislature of West Virginia:

That §3-8-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§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

1 circulated, any anonymous letter, circular, placard, radio or television advertisement or other
2 publication supporting or aiding the election or defeat of a clearly identified candidate.

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

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

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

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

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

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

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

1 and contributions totaling more than \$1,000 from any one person after the primary and before the
2 general election.

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

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

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

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

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

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

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

17 (n) No person may conduct a fundraising event or a social function or gathering for the
18 purpose of soliciting, receiving contributions, pledges or other forms of political contributions for
19 a member of the Legislature outside of the legislative district of the member during the following
20 time periods: (1) Four days immediately before any regular or extraordinary session of the
21 Legislature; (2) during any regular or extraordinary session of the Legislature; (3) seven days
22 immediately following the adjournment sine die of any regular or extraordinary session of the

1 Legislature; (4) the time period during any interim meetings of any committee of the Legislature or
2 any party caucus; and (5) the two- day period immediately following any interim meetings of any
3 committee of the Legislature or any party caucus.

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

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

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

NOTE: The purpose of this bill is to prohibiting certain political fundraising activities for members of the Legislature during certain periods of time before, during and after the Legislature is in session. The bill provides that existing misdemeanor penalties also apply.

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