

1 **Senate Bill No. 326**

2 (By Senators Nohe, Boley, Leonhardt, Sypolt, Palumbo, Trump and Blair)

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4 [Introduced January 27, 2015; referred to the Committee on the Judiciary.]
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8 A BILL to amend and reenact §3-8-2 of the Code of West Virginia, 1931, as amended, relating to
9 campaign finance reports for candidates for delegate to a national party convention.

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

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

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

14 **§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting**
15 **independent expenditures.**

16 (a) Except for: (1) Candidates for party committeeman and committeewoman; ~~and~~ (2)
17 federal committees required to file under the provisions of 2 U. S. C. §434; and (3) candidates for
18 delegate to a national convention, all candidates for nomination or election and all persons
19 supporting, aiding or opposing the nomination, election or defeat of any candidate shall keep for a
20 period of six months records of receipts and expenditures which are made for political purposes. All
21 of the receipts and expenditures are subject to regulation by the provisions of this article. Verified
22 financial statements of the records and expenditures shall be made and filed as public records by all

1 candidates and by their financial agents, representatives or any person acting for and on behalf of any
2 candidate and by the treasurers of all political party committees.

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

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

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

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

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

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

22 (F) With regard to the contributors required to be listed pursuant to paragraph (E) of this

1 subdivision, the statement shall also include:

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

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

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

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

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

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

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

17 (3) The Secretary of State shall expeditiously prepare indices setting forth, on a
18 candidate-by-candidate basis, all independent expenditures separately, made by, or on behalf of, ~~or~~
19 for or against each candidate, as reported under this subsection, and for periodically publishing such
20 indices on a timely preelection basis.

21 (c) (1) A person, including a political committee, who makes or contracts to make
22 independent expenditures aggregating \$1,000 or more for any statewide, legislative or multicounty

1 judicial candidate or \$500 or more for any county office, single-county judicial candidate, committee
2 supporting or opposing a candidate on the ballot in more than one county or any municipal candidate
3 on a municipal election ballot, after the fifteenth day, but more than twelve hours, before the date
4 of an election, shall file a report on a form prescribed by the Secretary of State describing the
5 expenditures within twenty-four hours: *Provided*, That a person making expenditures in the amount
6 of \$1,000 or more for any statewide or legislative candidate on or after the fifteenth day but more
7 than twelve hours before the day of any election shall report such expenditures in accordance with
8 section two-b of this article and shall not file an additional report as provided herein.

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

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

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

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

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

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

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

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

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

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

1 is received by the secretary.

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

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

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

(NOTE: The purpose of this bill is to eliminate the campaign finance reporting requirement for candidates for delegate to a national convention.

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