

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5362

By Delegate Rohrbach

[Introduced January 30, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended, related to
 2 defining protections for election officials, workers, and poll workers; clarifying protections
 3 for those working in elections; reducing interference with election workers; actions taken
 4 before elections to ensure integrity; and increasing election security and amending the
 5 form for poll worker registration.

Be it enacted by the Legislature of West Virginia:

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; protections for election workers.**

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

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

9 (c) A person may not, in any room or building occupied for the discharge of official duties by
 10 any officer or employee of the state or a political subdivision of the state, solicit orally or by written
 11 communication delivered within the room or building, or in any other manner, any contribution of
 12 money or other thing of value for any party or political purpose, from any postmaster or any other
 13 officer or employee of the federal government, or officer or employee of the state, or a political
 14 subdivision of the state. An officer, agent, clerk, or employee of the federal government, or of this
 15 state, or any political subdivision of the state, who may have charge or control of any building,

16 office, or room, occupied for any official purpose, may not knowingly permit any person to enter
17 any building, office, or room, occupied for any official purpose, for the purpose of soliciting or
18 receiving any political assessments from, or delivering or giving written solicitations for, or any
19 notice of, any political assessments to, any officer or employee of the state, or a political
20 subdivision of the state.

21 (d) Except as provided in §3-8-8 of this code, a person entering into any contract with the
22 state or its subdivisions, or any department or agency of the state, either for rendition of personal
23 services or furnishing any material, supplies, or equipment or selling any land or building to the
24 state, or its subdivisions, or any department or agency of the state, if payment for the performance
25 of the contract or payment for the material, supplies, equipment, land, or building is to be made, in
26 whole or in part, from public funds may not, during the period of negotiation for or performance
27 under the contract or furnishing of materials, supplies, equipment, land, or buildings, directly or
28 indirectly, make any contribution to any political party, committee, or candidate for public office, or
29 to any person for political purposes or use nor may any person or firm solicit any contributions for
30 any purpose during any period.

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

35 (f) A person may not, directly or indirectly, make any contribution in excess of the amounts
36 permitted by §3-8-5c of this code, in connection with any campaign for nomination or election to or
37 on behalf of any statewide office, in connection with any other campaign for nomination or election
38 to or on behalf of any other elective office in the state or any of its subdivisions, or in connection
39 with or on behalf of any person engaged in furthering, advancing, supporting, or aiding the
40 nomination or election of any candidate for any of the offices.

41 (g) It is unlawful for any person to create, establish, or organize more than one political
42 committee with the intent to avoid or evade the contribution limitations contained in this article.

43 (h) A person may not, directly or indirectly, make contributions to a state party executive
44 committee or caucus campaign committee which, in the aggregate, are in excess of the amounts
45 permitted by §3-8-5c of this code in any calendar year.

46 (i) The limitations on contributions contained in this section do not apply to transfers among
47 a state party executive committee, a caucus campaign committee, and a national committee of the
48 same political party: *Provided*, That the moneys transferred may only be used for voter registration
49 and get-out-the-vote activities of the state committees.

50 (j) A person may not solicit any contribution, other than contributions to a campaign for or
51 against a county or local government ballot issue, from any nonelective salaried employee of the
52 state government or of any of its subdivisions: *Provided*, That in no event may any person acting in
53 a supervisory role solicit a person who is a subordinate employee for any contribution. A person
54 may not coerce or intimidate any nonelective salaried employee into making a contribution. A
55 person may not coerce or intimidate any nonsalaried employee of the state government or any of
56 its subdivisions into engaging in or refraining from any form of political activity. The provisions of
57 this subsection may not be construed to prevent any employee from making a contribution or from
58 engaging in political activity voluntarily without coercion, intimidation, or solicitation.

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

64 (l) A person may not place any letter, circular, flyer, advertisement, election paraphernalia,
65 solicitation material or other printed or published item tending to influence voting at any election in
66 a roadside receptacle unless it is: (1) Approved for placement into a roadside receptacle by the

67 business or entity owning the receptacle; and (2) contains a written acknowledgment of the
68 approval. This subdivision does not apply to any printed material contained in a newspaper or
69 periodical published or distributed by the owner of the receptacle. The term "roadside receptacle"
70 means any container placed by a newspaper or periodical business or entity to facilitate home or
71 personal delivery of a designated newspaper or periodical to its customers.

72 (m) Any person violating any provision of this section is guilty of a misdemeanor and, upon
73 conviction thereof, shall be fined not more than ~~\$1,000~~ \$2,000, or confined in jail for not more than
74 one year, or both fined and confined.

75 (n) Election Officials and workers, whether salaried, non-salaried or contracted, including
76 poll workers, shall be protected by West Virginia law from threats, intimidation, harassment and/or
77 coercion that would interfere with their ability to perform their duties during the process of an
78 election and their normal duties at a polling place. That threats, intimidation, harassment, or
79 coercion against the family or household member of an election official, including salaried, non-
80 salaried, or contracted workers, including poll workers, shall be protected under equal penalty.

81 (1) A person may not, without consent, disseminate or make publicly available, including
82 but not limited to the use of the internet, the personal information of an election worker, salaried,
83 non-salaried or contracted, or that of their family and/or household members.

84 (2) Personal information includes but is not limited to the home address, telephone
85 number, directions, or photographs of the home or alternate contact information of an election
86 official or worker, including a poll worker, salaried, non-salaried or contracted including that of their
87 family and/or household members.

88 (3) Acts committed in advance of an election that would interfere with that worker's ability
89 to perform their duties or following an election to retaliate for an election outcome against an
90 election official, election worker, including a poll worker, shall be held under equal penalty as set
91 forth in this code.

92 (o) Election workers, as defined, shall not be verbally or visually harassed by signs or

93 weapons, or physically obstructed when entering or exiting a polling place or any other location
94 where they are fulfilling the duties for which they are responsible as part of the election process.

95 (p) This bill shall be effective upon passage and changes made to this section during the
96 2024 Regular Session of West Virginia Legislature shall be added as an addendum to poll worker
97 registration forms provided by the West Virginia Secretary of State.

98 (q) Notice of the changes made to this section during the 2024 Regular Session of the
99 West Virginia Legislature shall be posted in all precincts to promote the safety and security of all
100 election workers.

NOTE: The purpose of this bill is to provide for additional protections offered to those people working in elections.

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