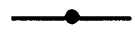


SB # 400

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED
Committee Substitute for
SENATE BILL NO. 400

(By Senator Craig, et al)



PASSED March 12, 1994
In Effect 90 days from Passage

E N R O L L E D
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 400

(SENATORS CRAIGO, BOLEY, HUMPHREYS,
BAILEY, CHAFIN, BLATNIK, SCHOONOVER
AND SHARPE, *original sponsors*)

[Passed March 12, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact sections five-a and nine, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to elections generally; authorizing an alternative reporting procedure for certain fund-raising events held by political party executive committees or political action committees representing a political party; requiring certain other information be reported; and authorizing such organizations to expend funds for memorials, flowers or citations.

Be it enacted by the Legislature of West Virginia:

That sections five-a and nine, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-5a. Information required in financial statement.

1 (a) Each financial statement required by the provisions
2 of this article shall contain the following information:

3 (1) The first name, middle initial, if any, and last name,
4 residence and mailing address and telephone number of
5 each candidate, financial agent, treasurer or person, and
6 the full name, address and telephone number of each
7 association, organization or committee filing a financial
8 statement.

9 (2) The balance of cash and any other sum of money on
10 hand at the beginning and the end of the period covered
11 by the financial statement.

12 (3) The first name, middle initial, if any, and the last
13 name in the case of an individual, and the full name of
14 each firm, association or committee, and the amount of
15 such contribution of such individual, firm, association or
16 committee, and, if the aggregate of the sum or sums
17 contributed by any one such individual, firm, association
18 or committee exceeds two hundred fifty dollars there
19 shall also be reported the residence and mailing address
20 and, in the case of an individual, the major business
21 affiliation and occupation. A contribution totaling more
22 than fifty dollars by any one contributor is prohibited
23 unless it is made by money order or by check, and a
24 violation of this provision is subject to section five-d of
25 this article. As used herein, the term "check" shall have
26 the meaning ascribed to that term in section one hundred
27 four, article three, chapter forty-six of this code.

28 (4) The total amount of contributions received during
29 the period covered by the financial statement.

30 (5) The first name, middle initial, if any, and the last
31 name, residence and mailing address of any individual or
32 the full name and mailing address of each firm,
33 association or committee making or cosigning a loan and
34 the amount of any loan received, the date and terms of
35 the loan, including interest and repayment schedule,

36 along with a copy of the loan agreement.

37 (6) The first name, middle initial, if any, and the last
38 name, residence and mailing address of any individual or
39 the full name and mailing address of each firm,
40 association or committee having previously made or
41 cosigned a loan for which payment is made or a balance
42 is outstanding at the end of the period, together with the
43 amount of repayment on the loan made during the period
44 and the balance at the end of the period.

45 (7) The total outstanding balance of all loans at the end
46 of the period.

47 (8) The first name, middle initial, if any, and the last
48 name, residence and mailing address of any individual,
49 or the full name and mailing address of each firm,
50 association or committee to whom each expenditure was
51 made or liability incurred, together with the amount and
52 purpose of each expenditure or liability incurred and the
53 date of each transaction.

54 (9) The total expenditure for the nomination, election
55 or defeat of a candidate or any person or organization
56 advocating or opposing the nomination, election or
57 defeat of any candidate, or the passage or defeat of any
58 issue, thing or item to be voted upon, in whose behalf an
59 expenditure was made or a contribution was given for
60 the primary or other election.

61 (10) The total amount of expenditures made during the
62 period covered by the financial statement.

63 (b) Any unexpended balance at the time of making the
64 financial statements herein provided for shall be
65 properly accounted for in that financial statement and
66 shall appear as a balance in the next following financial
67 statement.

68 (c) Each financial statement required by this section
69 shall contain a separate section setting forth the
70 following information for each fund-raising event held
71 during the period covered by the financial statement:

72 (1) The type of event, date held, and address and name,
73 if any, of the place where the event was held.

74 (2) All of the information required by subdivision (3),
75 subsection (a) of this section.

76 (3) The total of all moneys received at the fund-raising
77 event.

78 (4) The expenditures incident to the fund-raising event.

79 (5) The net receipts of the fund-raising event.

80 (d) When any lump sum payment is made to any
81 advertising agency or other disbursing person who does
82 not file a report of detailed accounts and verified
83 financial statements as required in this section, such
84 lump sum expenditures shall be accounted for in the
85 same manner as provided for herein.

86 (e) Any contribution or expenditure made by or on
87 behalf of a candidate for public office, to any other
88 candidate, or committee for a candidate for any public
89 office in the same election shall be accounted for in
90 accordance with the provisions of this section.

91 (f) No person, firm, association or committee may make
92 any contribution except from their own funds, unless
93 such person, firm, association or committee discloses in
94 writing to the person required to report under this
95 section the first name, middle initial, if any, and the last
96 name in the case of an individual, or the full name in
97 case of a firm, association or committee, residence and
98 mailing address and the major business affiliation and
99 occupation of the person, firm, association or committee
100 which furnished the funds to such contributor. All such
101 disclosures shall be included in the statement required
102 by this section.

103 (g) Any firm, association, committee or fund permitted
104 by section eight of this article to be a political committee
105 shall disclose on the financial statement its corporate or
106 other affiliation.

107 (h) No contribution may be made, directly or indi-
108 rectly, in a fictitious name, anonymously or by one
109 person through an agent, relative or other person so as to
110 conceal the identity of the source of the contribution or
111 in any other manner so as to effect concealment of the
112 contributor's identity.

113 (i) No person, firm, association or committee may
114 accept any contribution for the purpose of influencing
115 the nomination, election or defeat of a candidate or for
116 the passage or defeat of any issue or thing to be voted
117 upon unless the identity of the donor and the amount of
118 the contribution is known and reported.

119 (j) When any candidate, organization, committee or
120 person receives any anonymous contribution which
121 cannot be returned because the donor cannot be
122 identified, that contribution shall be donated to the
123 general revenue fund of the state. Any anonymous
124 contribution shall be recorded as such on the candidate's
125 financial statement, but may not be expended for
126 election expenses. At the time of filing, the financial
127 statement shall include a statement of distribution of
128 anonymous contributions, which total amount shall
129 equal the total of all anonymous contributions received
130 during the period.

131 (k) Any membership organization which raises funds
132 for political purposes by payroll deduction assessing
133 them as part of its membership dues or as a separate
134 assessment may report the amount raised as follows:

135 (1) If the portion of dues or assessments designated for
136 political purposes equals twenty-five dollars or less per
137 member over the course of a calendar year, the total
138 amount raised for political purposes through member-
139 ship dues or assessments during the period is reported by
140 showing the amount required to be paid by each member
141 and the number of members.

142 (2) If the total payroll deduction for political purposes
143 of each participating member equals twenty-five dollars

144 or less over the course of a calendar or fiscal year, as
145 specified by the organization, the organization shall
146 report the total amount received for political purposes
147 through such payroll deductions during the reporting
148 period, and to the maximum extent possible, the amount
149 of each yearly payroll deduction contribution level and
150 the number of members contributing at each such
151 specified level. The membership organization shall
152 maintain records of the name and yearly payroll
153 deduction amounts of each participating member.

154 (3) If any member contributes to the membership
155 organization through individual voluntary contributions
156 by means other than payroll deduction, membership
157 dues, or assessments as provided in this subsection, the
158 reporting requirements of subdivision (3), subsection (a)
159 of this section shall apply. Funds raised for political
160 purposes must be segregated from the funds for other
161 purposes and listed in its report.

162 (1) For purposes of this section:

163 (1) "Political purposes" means advocating or opposing
164 the nomination, election or defeat of one or more
165 candidates, supporting the retirement of the debt of a
166 candidate or activities of an established political party
167 or an organization which has declared itself a political
168 party, supporting the administration or activities of a
169 political committee or advocating or opposing the
170 passage of a ballot issue.

171 (2) "Membership organization" means a group that
172 grants bona fide rights and privileges, such as the right
173 to vote, to elect officers or directors, and the ability to
174 hold office, to its members, and which uses a majority of
175 its membership dues for purposes other than political
176 purposes. This term shall not include organizations that
177 grant membership upon receiving a contribution.

178 (3) "Fund-raising event" means an event such as a
179 dinner, reception, testimonial, cocktail party, auction or
180 similar affair through which contributions are solicited

181 or received by such means as the purchase of a ticket,
182 payment of an attendance fee or by the purchase of
183 goods or services.

184 (m) Notwithstanding the provisions of section five of
185 this article or of the provisions of this section to the
186 contrary, an alternative reporting procedure may be
187 followed by a political party executive committee or a
188 political action committee representing a political party
189 in filing financial reports for fund-raising events if the
190 total profit does not exceed five thousand dollars per
191 year. A political party executive committee or a political
192 action committee representing a political party may
193 report gross receipts for the sale of food, beverages,
194 services, novelty items, raffle tickets or memorabilia,
195 except that any receipt of more than fifty dollars from an
196 individual or organization shall be reported as a
197 contribution. A political party executive committee or a
198 political action committee representing a political party
199 using this alternative method of reporting shall report:
200 (i) The name of the committee; (ii) the type of fund-
201 raising activity undertaken; (iii) the location where the
202 activity occurred; (iv) the date of the fund raiser; (v) the
203 name of any individual who contributed more than fifty
204 dollars worth of items to be sold; (vi) the name and
205 amount received from any person or organization
206 purchasing more than fifty dollars worth of food,
207 beverages, services, novelty items, raffle tickets or
208 memorabilia; (vii) the gross receipts of the fund raiser;
209 and (viii) the date, amount, purpose and name and
210 address of each person or organization from whom items
211 with a fair market value of more than fifty dollars were
212 purchased for resale.

**§3-8-9. Lawful and unlawful election expenses; public
opinion polls and limiting their purposes;
limitation upon expenses; use of advertising
agencies and reporting requirements; delega-
tion of expenditures.**

1 (a) No candidate, financial agent or treasurer of a

2 political party committee shall pay, give or lend, either
3 directly or indirectly, any money or other thing of value
4 for any election expenses, except for the following
5 purposes:

6 (1) For rent, maintenance and furnishing of offices to
7 be used as political headquarters and for the payment of
8 necessary clerks, stenographers, typists, janitors and
9 messengers actually employed therein;

10 (2) In the case of a candidate who does not maintain a
11 headquarters, for reasonable office expenses and for the
12 payment of necessary clerks, stenographers and typists,
13 actually employed;

14 (3) For printing and distributing books, pamphlets,
15 circulars and other printed matter and radio and
16 television broadcasting and painting, printing and
17 posting signs, banners and other advertisements, all
18 relating to political issues and candidates;

19 (4) For renting and decorating halls for public meetings
20 and political conventions, for advertising public
21 meetings, and for the payment of traveling expenses of
22 speakers and musicians at such meetings;

23 (5) For the necessary traveling and hotel expenses of
24 candidates, political agents and committees, and for
25 stationery, postage, telegrams, telephone, express,
26 freight and public messenger service;

27 (6) For preparing, circulating and filing petitions for
28 nomination of candidates;

29 (7) For examining the lists of registered voters,
30 securing copies thereof, investigating the right to vote of
31 the persons listed therein and conducting proceedings to
32 prevent unlawful registration or voting;

33 (8) For conveying voters to and from the polls;

34 (9) For securing publication in newspapers and by
35 radio and television broadcasting of documents, articles,
36 speeches, arguments and any information relating to any

37 political issue, candidate or question or proposition,
38 submitted to a vote;

39 (10) For conducting public opinion poll or polls. For
40 the purpose of this section, the phrase "conducting of
41 public opinion poll or polls" shall mean and be limited to
42 the gathering, collection, collation and evaluation of
43 information reflecting public opinion, needs and
44 preferences as to any candidate, group of candidates,
45 party, issue or issues. No such poll shall be deceptively
46 designed or intentionally conducted in a manner
47 calculated to advocate the election or defeat of any
48 candidate or group of candidates or calculated to
49 influence any person or persons so polled to vote for or
50 against any candidate, group of candidates, proposition
51 or other matter to be voted on by the public at any
52 election: *Provided*, That nothing herein shall prevent the
53 use of the results of any such poll or polls to further,
54 promote or enhance the election of any candidate or
55 group of candidates or the approval or defeat of any
56 proposition or other matter to be voted on by the public
57 at any election;

58 (11) For legitimate advertising agency services,
59 including commissions, in connection with any campaign
60 activity for which payment is authorized by subdivisions
61 (3), (4), (5), (6), (7), (9) and (10) of this subsection; and

62 (12) For the purchase of memorials, flowers or citations
63 by political party executive committees or political
64 action committees representing a political party.

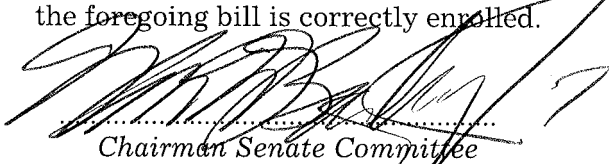
65 (b) Every liability incurred and payment made shall be
66 at a rate and for a total amount which is proper and
67 reasonable and fairly commensurate with the services
68 rendered.

69 (c) Every advertising agency subject to the provisions
70 of this article shall file, in the manner and form required
71 by section five-a of this article, the financial statements
72 required by section five of this article at the times
73 required therein and include therein, in itemized detail,

74 all receipts from and expenditures made on behalf of a
75 candidate, financial agent or treasurer of a political
76 party committee.

77 (d) Any candidate may designate a financial agent by
78 a writing duly subscribed by him which shall be in such
79 form and filed in accordance with the provisions of
80 section four of this article.

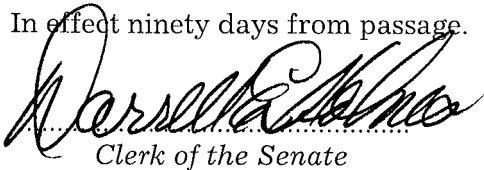
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

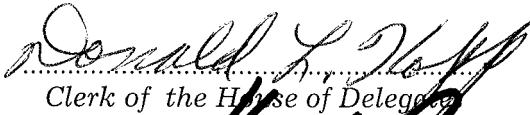

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Chairman Senate Committee


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Chairman House Committee

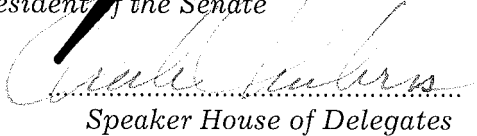
Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is appended this the 30th
day of March, 1994.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/28/64

Time

9:48 AM