

SB125

FILED

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CLAYTON WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

Committee Substitute for
SENATE BILL NO. 125

(By Senator Kessler, et al)

PASSED MARCH 13, 2004

In Effect 90 DAYS FROM Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 125

(SENATORS KESSLER, PLYMALE, EDGELL
AND BOWMAN, *original sponsors*)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §3-8-12 of the code of West Virginia, 1931, as amended, relating to permitting solicitation of certain state employees for contributions to campaigns for or against ballot issues in county or local elections.

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.**

1 (a) No person may publish, issue or circulate, or cause to
2 be published, issued or circulated, any anonymous letter,
3 circular, placard, radio or television advertisement or
4 other publication expressly advocating the election or
5 defeat of a clearly identified candidate.

6 (b) No owner, publisher, editor or employee of a newspa-
7 per or other periodical may insert, either in its advertising
8 or reading columns, any matter, paid for or to be paid for,
9 which tends to influence the voting at any election, unless
10 directly designating it as a paid advertisement and stating
11 the name of the person authorizing its publication and the
12 candidate in whose behalf it is published.

13 (c) No person may, in any room or building occupied for
14 the discharge of official duties by any officer or employee
15 of the state or a political subdivision of the state, solicit
16 orally or by written communication delivered within the
17 room or building, or in any other manner, any contribution
18 of money or other thing of value for any party or political
19 purpose, from any postmaster or any other officer or
20 employee of the federal government, or officer or employee
21 of the state, or a political subdivision of the state. No
22 officer, agent, clerk or employee of the federal govern-
23 ment, or of this state, or any political subdivision of the
24 state, who may have charge or control of any building,
25 office or room, occupied for any official purpose, may
26 knowingly permit any person to enter any building, office
27 or room, occupied for any official purpose, for the purpose
28 of soliciting or receiving any political assessments from, or
29 delivering or giving written solicitations for, or any notice
30 of, any political assessments to, any officer or employee of
31 the state or a political subdivision of the state.

32 (d) Except as provided in section eight of this article, no
33 person entering into any contract with the state or its
34 subdivisions, or any department or agency of the state,

35 either for rendition of personal services or furnishing any
36 material, supplies or equipment or selling any land or
37 building to the state, or its subdivisions, or any depart-
38 ment or agency of the state, if payment for the perfor-
39 mance of the contract or payment for the material, sup-
40 plies, equipment, land or building is to be made, in whole
41 or in part, from public funds may, during the period of
42 negotiation for or performance under the contract or
43 furnishing of materials, supplies, equipment, land or
44 buildings, directly or indirectly, make any contribution to
45 any political party, committee or candidate for public
46 office or to any person for political purposes or use; nor
47 may any person or firm solicit any contributions for any
48 purpose during any period.

49 (e) No person may, directly or indirectly, promise any
50 employment, position, work, compensation or other benefit
51 provided for, or made possible, in whole or in part, by act
52 of the Legislature, to any person as consideration, favor or
53 reward for any political activity for the support of or
54 opposition to any candidate or any political party in any
55 election.

56 (f) No person may, directly or indirectly, make any
57 contribution in excess of the value of one thousand dollars
58 in connection with any campaign for nomination or
59 election to or on behalf of any statewide office, or in excess
60 of the value of one thousand dollars, in connection with
61 any other campaign for nomination or election to or on
62 behalf of any other elective office in the state or any of its
63 subdivisions, or in connection with or on behalf of any
64 committee or other organization or person engaged in
65 furthering, advancing or advocating the nomination or
66 election of any candidate for any of the offices.

67 (g) (1) Notwithstanding the provisions of subsection (f)
68 of this section to the contrary, the aggregate contributions
69 made to a state party executive committee or state party
70 legislative caucus committee are to be permitted only

71 pursuant to the limitations imposed by the provisions of
72 this subsection.

73 (2) No person may, directly or indirectly, make contribu-
74 tions to a state party executive committee or state party
75 legislative caucus committee which, in the aggregate,
76 exceed the value of one thousand dollars in any calendar
77 year.

78 (h) The limitations on contributions contained in this
79 section do not apply to transfers between and among a
80 state party executive committee or a state party's legisla-
81 tive caucus political committee from national committees
82 of the same political party: *Provided*, That transfers
83 permitted by this subsection may not exceed fifty thou-
84 sand dollars in the aggregate in any calendar year to any
85 state party executive committee or state party legislative
86 caucus political committee: *Provided, however*, That the
87 moneys transferred may only be used for voter registration
88 and get-out-the-vote activities of the state committees.

89 (i) No person may solicit any contribution, other than
90 contributions to a campaign for or against a county or
91 local government ballot issue, from any nonelective
92 salaried employee of the state government or of any of its
93 subdivisions: *Provided*, That in no event shall any person
94 acting in a supervisory role solicit a person who is a
95 subordinate employee for any contribution. No person
96 may coerce or intimidate any nonelective salaried em-
97 ployee into making a contribution. No person may coerce
98 or intimidate any nonsalaried employee of the state
99 government or any of its subdivisions into engaging in any
100 form of political activity. The provisions of this subsection
101 may not be construed to prevent any employee from
102 making a contribution or from engaging in political
103 activity voluntarily without coercion, intimidation or
104 solicitation.

105 (j) No person may solicit a contribution from any other
106 person without informing the other person at the time of

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

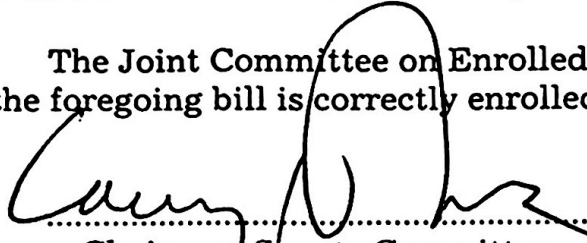
114 (k) No person may place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material or other printed or published item tending to influence voting at any election in a roadside receptacle unless it is: (1) Approved for placement into a roadside receptacle by the business or entity owning the receptacle; and (2) contains a written acknowledgment of the approval. This subdivision does not apply to any printed material contained in a newspaper or periodical published or distributed by the owner of the receptacle. The term "roadside receptacle" means any container placed by a newspaper or periodical business or entity to facilitate home or personal delivery of a designated newspaper or periodical to its customers.

128 (l) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars, or confined in a regional or county jail for not more than one year or, in the discretion of the court, be subject to both fine and confinement.

134 (m) The provisions of subsection (i) of this section, permitting contributions to a campaign for or against a county or local government ballot issue, shall become operable on and after the first day of January, two thousand five.

Enr. Com. Sub. for S. B. No. 125] 6

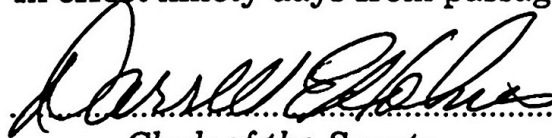
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman Senate Committee

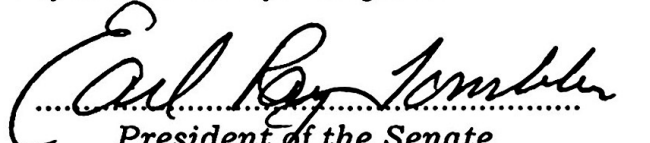

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Chairman House Committee

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 approved this the 5th
Day of April, 2004.


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Governor

PRESENTED TO THE
GOVERNOR

DATE 3/25/04
TIME 10:10 am