

1 **H. B. 4414**

2
3 (By Delegates Manchin, Longstreth, Lynch,
4 Jones, Diserio, Caputo, Young and Barrett)
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6 [Introduced February 5, 2014; referred to the
7 Committee on the Judiciary.]
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10 A BILL to amend and reenact §3-8-12 of the Code of West Virginia,
11 1931, as amended, relating to the solicitation of public
12 employees by an elected officer of the state or its political
13 subdivisions or a candidate for an elective office of the
14 state or its political subdivisions; clarifying that an
15 electronic communication is a form of contact; clarifying that
16 a candidate may not solicit certain persons; clarifying that
17 services may not be solicited from certain persons; and
18 removing postmasters and federal officers and employees from
19 those persons who may not be solicited.

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

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

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

24 **§3-8-12. Additional acts forbidden; circulation of written matter;**

1 **newspaper advertising; solicitation of contributions;**
2 **intimidation and coercion of employees; promise of**
3 **employment or other benefits; limitations on**
4 **contributions; public contractors; penalty.**

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

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

17 (c) A person may not, in any room or building occupied for the
18 discharge of official duties by any officer or employee of the
19 state or a political subdivision of the state, solicit orally or by
20 written communication, including a communication disseminated
21 electronically, delivered within the room or building, or in any
22 other manner, any contribution, ~~of money~~ service or other thing of
23 value for any candidate, party or political purpose, from any

1 ~~postmaster or any other officer or employee of the federal~~
2 ~~government, or officer or employee of the state, or a political~~
3 subdivision of the state. An officer, agent, clerk or employee of
4 ~~the federal government, or of this state, or any political~~
5 subdivision of the state, who may have charge or control of any
6 building, office or room, occupied for any official purpose, may
7 not knowingly permit any person to enter any building, office or
8 room, occupied for any official purpose for the purpose of
9 soliciting or receiving any political assessments from, or
10 delivering or giving written solicitations, including solicitations
11 delivered electronically, for, or any notice of, any political
12 assessments to, any officer or employee of the state, or a
13 political subdivision of the state.

14 (d) Except as provided in section eight of this article, a
15 person entering into any contract with the state or its
16 subdivisions, or any department or agency of the state, either for
17 rendition of personal services or furnishing any material, supplies
18 or equipment or selling any land or building to the state, or its
19 subdivisions, or any department or agency of the state, if payment
20 for the performance of the contract or payment for the material,
21 supplies, equipment, land or building is to be made, in whole or in
22 part, from public funds may not, during the period of negotiation
23 for or performance under the contract or furnishing of materials,
24 supplies, equipment, land or buildings, directly or indirectly,

1 make any contribution to any political party, committee or
2 candidate for public office or to any person for political purposes
3 or use; nor may any person or firm solicit any contributions for
4 any purpose during any period.

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

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

20 (g) A political organization (as defined in Section 527(e)(1)
21 of the Internal Revenue Code of 1986) may not solicit or accept
22 contributions until it has notified the Secretary of State of its
23 existence and of the purposes for which it was formed. During the
24 two-year election cycle, a political organization (as defined in

1 Section 527 (e) (1) of the Internal Revenue Code of 1986) may not
2 accept contributions totaling more than \$1,000 from any one person
3 prior to the primary election and contributions totaling more than
4 \$1,000 from any one person after the primary and before the general
5 election.

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

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

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

1 committees.

2 (k) A person may not solicit any contribution, service or
3 other thing of value for any candidate, party or political purpose,
4 other than contributions to a campaign for or against a county or
5 local government ballot issue, from any nonelective salaried
6 employee of the state government or of any of its subdivisions:
7 *Provided,* That in no event may any person acting in a supervisory
8 role solicit a person who is a subordinate employee for any
9 contribution, service or other thing of value for any candidate,
10 party or political purpose. A person may not coerce or intimidate
11 any nonelective salaried employee into making a contribution. A
12 person may not coerce or intimidate any nonsalaried employee of the
13 state government or any of its subdivisions into engaging in any
14 form of political activity. ~~The provisions of this~~ This subsection
15 may not be construed to prevent any employee from making a
16 contribution or providing a service for any candidate, party or
17 political purpose or from engaging in political activity
18 voluntarily without coercion, intimidation or solicitation.

19 (l) A person may not solicit a contribution from any other
20 person without informing the other person at the time of the
21 solicitation of the amount of any commission, remuneration or other
22 compensation that the solicitor or any other person will receive or
23 expect to receive as a direct result of the contribution being
24 successfully collected. Nothing in this subsection may be

1 construed to apply to solicitations of contributions made by any
2 person serving as an unpaid volunteer.

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

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

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

23 (p) The limitations on contributions established by subsection
24 (g) of this section do not apply to contributions made for the

1 purpose of supporting or opposing a ballot issue, including a
2 Constitutional amendment.

NOTE: The purpose of this bill is to clarify that electronic communications is a form of contact. The bill clarifies that a candidate may not solicit certain persons. The bill clarifies that services may not be solicited from certain persons. The bill removes postmasters and federal officers and employees from those persons who may not be solicited.

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