

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2932

BY DELEGATES KESSINGER, GRAVES, AND MAZZOCCHI

[Introduced March 05, 2021; referred to the
Committee on Government Organization]

1 A BILL to amend §1-7-2 and §1-7-3 of the Code of West Virginia, 1931, as amended, relating to
2 the protection of an individual's freedom of association.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. THE PROTECT OUR RIGHT TO UNITE ACT.

§1-7-2. Definitions.

1 For the purposes of this article:

2 (1) "Donor or membership information" means any record which identifies an individual's
3 membership in, or support of, any tax-exempt entity under 26 U.S.C. §501(c), including
4 information that does not directly identify the individual but which, in combination with other
5 information, would allow a reasonable person to identify the individual. Donor or membership
6 information includes, but is not limited to, a member, donor, or supporter's name, address,
7 occupation, employer, or any electronic or technical data, including social media accounts, email
8 accounts, location data, or other identifying information.

9 (2) "Individual" means a person who is a United States citizen, or who is domiciled in the
10 United States, but does not include a foreign agent, foreign government, or foreign principal.

11 (3) "Public agency" means:

12 (A) Any department, body, office, commission, board, unit, political subdivision, court, or
13 division of state or local government, however designated; and

14 (B) Any official, employee, or agent of an entity described in paragraph (A) of this
15 subdivision.

16 (4) "Charitable organization" means a person who is or holds itself out to be a benevolent,
17 educational, philanthropic, humane, patriotic, religious or eleemosynary organization, or any
18 person who solicits or obtains contributions solicited from the public for charitable purposes, or
19 any person who in any manner employs any appeal for contributions which may be reasonably
20 interpreted to suggest that any part of those contributions will be used for charitable purposes. A
21 chapter, branch, area, office or similar affiliate or any person soliciting contributions within the

22 state for a charitable organization which has its principal place of business outside the state is a
23 charitable organization for the purposes of this article.

§1-7-3. Protecting privacy of association.

1 (a) Except as otherwise provided in chapter 3 of this code, chapter 6B of this code, or
2 subsection (e) of this section, a public agency may not require any tax-exempt organization under
3 26 U.S.C. §501(c) to provide the agency with donor or membership information: *Provided*, That
4 where the public agency nevertheless obtains donor or membership information, such information
5 may not be released unless pursuant to chapter 3 of this code, chapter 6B of this code, or
6 subsection (e) of this section.

7 (b) A public agency may not release, permit to be released, nor be compelled to release
8 any record which identifies an individual's association with any tax-exempt organization under 26
9 U.S.C. §501(c), or which reveals an individual's financial or nonfinancial support for such an entity,
10 without the express written permission of the entity and the citizen, or at the request of the citizen.

11 (c) All donor or membership information is exempt from production or disclosure under the
12 state's Freedom of Information Act, §29B-1-1 *et seq.* of this code.

13 (d) A public agency does not violate subsection (a) of this section if donor or membership
14 information is redacted from a disclosed record.

15 (e) Unless otherwise required for conformity to federal laws or regulations, no state agency
16 or official via its rulemaking or other authority is permitted to impose additional requirements
17 beyond those currently in statute regarding the registration, reporting or operation of a charitable
18 organization.

19 ~~(e)~~ (f) Nothing in this section precludes compliance with a lawful order issued by a court
20 of competent jurisdiction.

NOTE: The purpose of this bill is to prohibit a state agency or official from promulgating regulations that increase requirements beyond those currently prescribed by statute regarding the registration, reporting, or operation of foundations in West Virginia.

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