

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 516

By Senators Azinger, Trump, and Weld

[Introduced January 30, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-8-1a, §3-8-2, and §3-8-2b of the Code of West Virginia, 1931, as
 2 amended, all relating to requirements for disclosure of donor contributions; defining terms;
 3 modifying the requirements for disclosing individual contributions to an independent
 4 expenditure; and clarifying disclosure for contributions made for the specific purpose of
 5 electioneering communications.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1a. Definitions.

1 As used in this article, the following terms have the following definitions:

2 ~~(1)~~ "Ballot issue" means a constitutional amendment, special levy, bond issue, local option
 3 referendum, municipal charter or revision, an increase or decrease of corporate limits, or any other
 4 question that is placed before the voters for a binding decision.

5 ~~(2)~~ "Billboard advertisement" means a commercially available outdoor advertisement,
 6 sign, or similar display regularly available for lease or rental to advertise a person, place, or
 7 product.

8 ~~(3)~~ "Broadcast, cable, or satellite communication" means a communication that is publicly
 9 distributed by a television station, radio station, cable television system, or satellite system.

10 (4) "Candidate" means an individual who:

11 (A) Has filed a certificate of announcement under §3-5-7 of this code or a municipal
 12 charter;

13 (B) Has filed a declaration of candidacy under §3-5-23 of this code;

14 (C) Has been named to fill a vacancy on a ballot; or

15 (D) Has declared a write-in candidacy or otherwise publicly declared his or her intention to
 16 seek nomination or election for any state, district, county, municipal, or party office to be filled at

17 any primary, general, or special election.

18 ~~(5)~~ "Candidate's committee" means a political committee established with the approval of
19 or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking
20 a particular office or to support or aid his or her nomination or election to an office in an election
21 cycle. If a candidate directs or influences the activities of more than one active committee in a
22 current campaign, those committees shall be considered one committee for the purpose of
23 contribution limits.

24 (6) "Caregiving services" means direct care, protection, and supervision of a child, or other
25 person with a disability or a medical condition, for which a candidate has direct caregiving
26 responsibility. For the purposes of this article, the caregiving service expense incurred shall be in
27 direct connection with the candidate's campaign activities during the current election cycle.

28 ~~(7)~~ "Caucus campaign committee" means a West Virginia House of Delegates or Senate
29 political party caucus campaign committee that receives contributions and makes expenditures to
30 support or oppose one or more specific candidates or slates of candidates for nomination,
31 election, or committee membership.

32 ~~(8)~~ "Clearly identified" means that the name, nickname, photograph, drawing, or other
33 depiction of the candidate appears, or the identity of the candidate is otherwise apparent through
34 an unambiguous reference, such as "the Governor", "your Senator", or "the incumbent", or
35 through an unambiguous reference to his or her status as a candidate, such as "the Democratic
36 candidate for Governor" or "the Republican candidate for Supreme Court of Appeals".

37 ~~(9)~~ "Contribution" means a gift, subscription, loan, assessment, payment for services,
38 dues, advance, donation, pledge, contract, agreement, forbearance, promise of money, or other
39 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other
40 tangible thing of value to a person, made for the purpose of influencing the nomination, election, or
41 defeat of a candidate.

42 (A) A coordinated expenditure is a contribution for the purposes of this article.

43 (B) An offer or tender of a contribution is not a contribution if expressly and unconditionally
44 rejected or returned. A contribution does not include volunteer personal services provided without
45 compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value
46 for reporting requirements and contribution limitations.

47 ~~(10)~~ "Coordinated expenditure" is an expenditure made in concert with, in cooperation
48 with, or at the request or suggestion of a candidate or candidate's committee and meeting the
49 criteria provided in §3-8-9a of this code.

50 (11) "Corporate political action committee" means a political action committee that is a
51 separate segregated fund of a corporation that may only accept contributions from its restricted
52 group as outlined by the rules of the State Election Commission.

53 ~~(12)~~ "Direct costs of purchasing, producing, or disseminating electioneering
54 communications" means:

55 (A) Costs charged by a vendor, including, but not limited to, studio rental time,
56 compensation of staff and employees, costs of video or audio recording media and talent, material
57 and printing costs, and postage; or

58 (B) The cost of air time on broadcast, cable, or satellite radio and television stations, the
59 costs of disseminating printed materials, studio time, use of facilities, and the charges for a broker
60 to purchase air time.

61 ~~(13)~~ "Disclosure date" means either of the following:

62 (A) The first date during any calendar year on which any electioneering communication is
63 disseminated after the person paying for the communication has spent a total of \$5,000 or more
64 for the direct costs of purchasing, producing, or disseminating electioneering communications; or

65 (B) Any other date during that calendar year after any previous disclosure date on which
66 the person has made additional expenditures totaling \$5,000 or more for the direct costs of
67 purchasing, producing, or disseminating electioneering communications.

68 ~~(14)~~ "Election" means any primary, general, or special election conducted under the

69 provisions of this code or under the charter of any municipality at which the voters nominate or
70 elect candidates for public office. For purposes of this article, each primary, general, special, or
71 local election constitutes a separate election. This definition is not intended to modify or abrogate
72 the definition of the term "nomination" as used in this article.

73 ~~(15)~~ (A) "Electioneering communication" means any paid communication made by
74 broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or
75 publication in any newspaper, magazine, or other periodical that:

76 (i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney
77 General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, or the
78 Legislature;

79 (ii) Is publicly disseminated within:

80 (I) Thirty days before a primary election in which the nomination for office sought by the
81 candidate is to be determined; or

82 (II) Sixty days before a general or special election in which the office sought by the
83 candidate is to be filled; and

84 (iii) Is targeted to the relevant electorate.

85 (B) "Electioneering communication" does not include:

86 (i) A news story, commentary, or editorial disseminated through the facilities of any
87 broadcast, cable or satellite television, radio station, newspaper, magazine, or other periodical
88 publication not owned or controlled by a political party, political committee, or candidate: *Provided*,
89 That a news story disseminated through a medium owned or controlled by a political party, political
90 committee, or candidate is nevertheless exempt if the news is:

91 (I) A bona fide news account communicated in a publication of general circulation or
92 through a licensed broadcasting facility; and

93 (II) Is part of a general pattern of campaign-related news that gives reasonably equal
94 coverage to all opposing candidates in the circulation, viewing, or listening area;

95 (ii) Activity by a candidate committee, party executive committee, a caucus campaign
96 committee, or a political action committee that is required to be reported to the State Election
97 Commission or the Secretary of State as an expenditure pursuant to §3-8-5 of this code or the
98 rules of the State Election Commission or the Secretary of State promulgated pursuant to such
99 provision: *Provided*, That independent expenditures by a party executive committee, caucus
100 committee, or a political action committee required to be reported pursuant to §3-8-2 of this code
101 are not exempt from the reporting requirements of this section;

102 (iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election
103 Commission or the Secretary of State or a communication promoting that debate or forum made
104 by or on behalf of its sponsor;

105 (iv) A communication paid for by any organization operating under Section 501(c)(3) of the
106 Internal Revenue Code of 1986;

107 (v) A communication made while the Legislature is in session which, incidental to
108 promoting or opposing a specific piece of legislation pending before the Legislature, urges the
109 audience to communicate with a member or members of the Legislature concerning that piece of
110 legislation;

111 (vi) A statement or depiction by a membership organization in existence prior to the date on
112 which the individual named or depicted became a candidate, made in a newsletter or other
113 communication distributed only to bona fide members of that organization;

114 (vii) A communication made solely for the purpose of attracting public attention to a product
115 or service offered for sale by a candidate or by a business owned or operated by a candidate which
116 does not mention an election, the office sought by the candidate, or his or her status as a
117 candidate; or

118 (viii) A communication, such as a voter's guide, which refers to all of the candidates for one
119 or more offices, which contains no appearance of endorsement for or opposition to the nomination
120 or election of any candidate and which is intended as nonpartisan public education focused on

121 issues and voting history.

122 ~~(16)~~ "Expressly advocating" means any communication that:

123 (A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the
124 incumbent nominee for Supreme Court", "cast your ballot for the Republican challenger for House
125 of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life", or "vote Pro-Choice"
126 accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice,
127 "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates, "reject
128 the incumbent";

129 (B) Communicates campaign slogans or individual words that can have no other
130 reasonable meaning than to urge the election or defeat of one or more clearly identified
131 candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith's the One",
132 "Jones '06", "Baker", etc.; or

133 (C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or
134 against a specific candidate.

135 ~~(17)~~ "Financial agent" means any individual acting for and by himself or herself, or any two
136 or more individuals acting together or cooperating in a financial way to aid or take part in the
137 nomination or election of any candidate for public office, or to aid or promote the success or defeat
138 of any political party at any election.

139 ~~(18)~~ "Financial transactions" means all contributions or loans received and all repayments
140 of loans or expenditures made to promote the candidacy of any person by any candidate or any
141 organization advocating or opposing the nomination, election, or defeat of any candidate to be
142 voted on.

143 ~~(19)~~ "Firewall" means a policy designed and implemented to prohibit the flow of information
144 between employees or consultants providing services for the person paying for a communication
145 and those employees or consultants currently or previously providing services to a candidate, or to
146 a committee supporting or opposing a candidate, clearly identified in the communication.

147 ~~(20)~~ "Foreign national" means the following:

148 (A) A foreign principal, as such term is defined in 22 U.S.C. §611(b), which includes:

149 (i) A government of a foreign country;

150 (ii) A foreign political party;

151 (iii) A person outside of the United States, unless it is established that such person:

152 (I) Is an individual and a citizen of the United States; or

153 (II) That such person is not an individual and is organized under or created by the laws of
154 the United States or of any state or other place subject to the jurisdiction of the United States and
155 has its principal place of business within the United States; and

156 (iv) A partnership, association, corporation, organization, or other combination of persons
157 organized under the laws of, or having its principal place of business in, a foreign country.

158 (B) An individual who is not a citizen of the United States or a national of the United States,
159 as defined in 8 U.S.C. §1101(a)(22), and who is not lawfully admitted for permanent residence, as
160 defined by 8 U.S.C. §1101(a)(20).

161 ~~(24)~~ "Fund-raising event" or "fundraiser" means an event such as a dinner, reception,
162 testimonial, cocktail party, auction, or similar affair through which contributions are solicited or
163 received.

164 ~~(22)~~ "In concert or cooperation with or at the request or suggestion of" means that a
165 candidate or his or her agent consulted with:

166 (A) The sender regarding the content, timing, place, nature, or volume of a particular
167 communication or communication to be made; or

168 (B) A person making an expenditure that would otherwise offset the necessity for an
169 expenditure of the candidate or candidate's committee.

170 ~~(23)~~ "Independent expenditure" means an expenditure by a person:

171 (A) Expressly advocating the election or defeat of a clearly identified candidate, including
172 supporting or opposing the candidates of a political party; and

173 (B) That is not made in concert or cooperation with or at the request or suggestion of such
174 candidate, his or her agents, the candidate's authorized political committee, or a political party
175 committee or its agents.

176 An expenditure which does not meet the criteria for an independent expenditure is
177 considered a contribution.

178 (24) "Local" refers to the election of candidates to a city, county, or municipal office and any
179 issue to be voted on by only the residents of a particular political subdivision.

180 (25) "Mass mailing" means a mailing by United States mail, facsimile, or electronic mail of
181 more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day
182 period. For purposes of this subdivision, "substantially similar" includes communications that
183 contain substantially the same template or language, but vary in nonmaterial respects such as
184 communications customized by the recipient's name, occupation, or geographic location.

185 (26) "Membership organization" means a group that grants bona fide rights and privileges,
186 such as the right to vote, to elect officers or directors, and the ability to hold office to its members
187 and which uses a majority of its membership dues for purposes other than political purposes.
188 "Membership organization" does not include organizations that grant membership upon receiving
189 a contribution.

190 "Membership organization political action committee" means a labor organization or a
191 trade association, cooperative or other incorporated membership organization that: is composed
192 of members; expressly states the qualifications for membership in its articles and by-laws; makes
193 its articles, by-laws and other organizational documents available to its members; expressly seeks
194 members; acknowledges acceptance of membership, such as by sending membership cards to
195 new members or including them on a membership newsletter list; and is organized as a separate
196 segregated fund of the membership organization primarily for the purpose of influencing any
197 election on the ballot in the State of West Virginia.

198 (27) "Name" means the full first name, middle name, or initial, if any, and full legal last

199 name of an individual and the full name of any association, corporation, committee, or other
200 organization of individuals, making the identity of any person who makes a contribution apparent
201 by unambiguous reference.

202 ~~(28)~~ "Person" means an individual, corporation, partnership, committee, association, and
203 any other organization or group of individuals.

204 ~~(29)~~ "Political action committee" means a committee organized by one or more persons,
205 the primary purpose of which is to support or oppose the nomination or election of one or more
206 candidates. The following are types of political action committees:

207 (A) A corporate political action committee, as that term is defined in this section;

208 ~~(B) A membership organization, as that term is defined in this section~~ A membership
209 organization political action committee, as that term is defined in this section; and

210 (C) An unaffiliated political action committee, as that term is defined in this section.

211 ~~(30)~~ "Political committee" means any candidate committee, political action committee, or
212 political party committee.

213 ~~(31)~~ "Political party" means a political party as that term is defined by §3-1-8 of this code or
214 any committee established, financed, maintained, or controlled by the party, including any
215 subsidiary, branch, or local unit thereof and including national or regional affiliates of the party.

216 ~~(32)~~ "Political party committee" means a committee established by a political party or
217 political party caucus for the purposes of engaging in the influencing of the election, nomination, or
218 defeat of a candidate in any election.

219 ~~(33)~~ "Political purposes" means supporting or opposing the nomination, election, or defeat
220 of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of
221 the debt of a candidate or political committee or the administration or activities of an established
222 political party or an organization which has declared itself a political party, and determining the
223 advisability of becoming a candidate under the pre-candidacy financing provisions of this chapter.

224 ~~(34)~~ "Targeted to the relevant electorate" means a communication which refers to a clearly

225 identified candidate for statewide office or the Legislature and which can be received by 140,000
226 or more individuals in the state in the case of a candidacy for statewide office, 8,220 or more
227 individuals in the district in the case of a candidacy for the State Senate, and 2,410 or more
228 individuals in the district in the case of a candidacy for the House of Delegates.

229 ~~(35)~~ "Telephone bank" means telephone calls that are targeted to the relevant electorate,
230 other than telephone calls made by volunteer workers, regardless of whether paid professionals
231 designed the telephone bank system, developed calling instructions, or trained volunteers.

232 ~~(36)~~ "Unaffiliated political action committee" means a political action committee that is not
233 affiliated with a corporation or a membership organization.

§3-8-2. Requirements for reporting independent expenditures.

1 (a) In addition to any other reporting required by the provisions of this chapter, any person
2 who makes independent expenditures in an aggregate amount or value in excess of \$1,000 during
3 a calendar year shall file a disclosure statement, according to the requirements of §3-8-5 of this
4 code, that contains all of the following information:

5 (1) The name of the person making the expenditure;

6 (2) The name of any person sharing or exercising direction or control over the activities of
7 the person making the expenditure;

8 (3) The name of the custodian of the books and accounts of the person making the
9 expenditure;

10 (4) If the person making the expenditure is an entity, the principal place of business of the
11 partnership, corporation, committee, association, organization, or group which made the
12 expenditure;

13 (5) The amount of each independent expenditure during the period covered by the
14 statement and the name of the person to whom the expenditure was made;

15 (6) The elections to which the independent expenditure pertain, the names, if known, of the
16 candidates referred to or to be referred to therein, whether the expenditure is intended to support

17 or oppose the identified candidates, and the amount of the total expenditure reported pursuant to
18 subdivision (5) of this subsection spent to support or oppose each of the identified candidates;

19 (7) The name and address of any person who contributed a total of more than ~~\$250~~ \$1,000
20 between the first day of the preceding calendar year, and the disclosure date, and whose
21 contributions were made for the purpose of furthering the expenditure;

22 (8) With regard to the contributors required to be listed pursuant to subdivision (7) of this
23 subsection the statement shall also include:

24 (A) The month, day, and year that the contributions of any single contributor exceeded
25 \$250;

26 (B) If the contributor is a political action committee, the name and address the political
27 action committee registered with the Secretary of State, county clerk, or municipal clerk;

28 (C) If the contributor is an individual, the name and address of the individual, his or her
29 occupation, the name and address of the individual's current employer, if any, or, if the individual is
30 self-employed, the name and address of the individual's business, if any;

31 (D) A description of the contribution, if other than money; and

32 (E) The value in dollars and cents of the contribution; and

33 (9) A certification that such independent expenditure was not made in cooperation,
34 consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized
35 committee or agent of such candidate.

36 (b) Any person who makes a contribution for the purpose of funding an independent
37 expenditure under this subsection shall, at the time the contribution is made, provide his or her
38 name, address, occupation, his or her current employer, if any, or, if the individual is
39 self-employed, the name of his or her business, if any, to the recipient of the contribution.

40 (c) The Secretary of State shall expeditiously prepare indices setting forth, on a
41 candidate-by-candidate basis, all independent expenditures separately, made by, on behalf of, for,
42 or against each candidate, as reported under this subsection, and shall periodically publish such

43 indices on a timely pre-election basis.

44 (d)(1) Any person or political committee that makes or contracts to make independent
45 expenditures aggregating \$5,000 or more for any statewide, legislative, or multicounty judicial
46 candidate or \$500 or more for any county office candidate, single-county judicial candidate,
47 committee supporting or opposing a candidate on the ballot in more than one county, or any
48 municipal candidate on a municipal election ballot, after the 15th day, but more than 12 hours,
49 before the date of an election shall file a report on a form prescribed by the Secretary of State
50 describing the expenditures within 24 hours: *Provided*, That a person making expenditures for any
51 statewide or legislative candidate on or after the 15th day but more than 12 hours before the day of
52 any election meeting the criteria of this section, but which are subject to the disclosure
53 requirements of §3-8-2b of this code, shall report such expenditures in accordance with the
54 requirements of §3-8-2b of this code and may not file the report otherwise required by this
55 subsection.

56 (2) Any person who files a report under subdivision (1) of this subsection shall file an
57 additional report within 24 hours after each time the person makes or contracts to make
58 independent expenditures aggregating an additional \$5,000 or more for any statewide, legislative,
59 or multicounty judicial candidate or \$500 with respect to the same election, for any county office,
60 single-county judicial candidate, committee supporting or opposing a candidate on the ballot in
61 more than one county, or any municipal candidate on a municipal election ballot, as that to which
62 the initial report relates.

63 (e) (1) A person, including a political committee, who makes or contracts to make
64 independent expenditures aggregating \$10,000 or more at any time, up to and including the 15th
65 day before the date of an election, shall file a report on a form prescribed by the Secretary of State
66 describing the expenditures within 48 hours.

67 (2) Any person who files a report under subdivision (1) of this subsection shall file an
68 additional report within 48 hours after each time the person makes or contracts to make

69 independent expenditures aggregating an additional \$10,000 with respect to the same election as
70 that to which the initial report relates.

71 (f) Any communication paid for by an independent expenditure must include a clear and
72 conspicuous public notice that:

73 (1) Clearly states that the communication is not authorized by the candidate or the
74 candidate's committee; and

75 (2) Clearly identifies the person making the expenditure: *Provided*, That if the
76 communication appears on or is disseminated by broadcast, cable or satellite transmission, the
77 statement required by this subsection must be both spoken clearly and appear in clearly readable
78 writing at the end of the communication.

79 (g) Any person who has spent a total of \$5,000 or more for the direct costs of purchasing,
80 producing, or disseminating electioneering communications during any calendar year shall
81 maintain all financial records and receipts related to such expenditure for a period of five years
82 following the filing of a disclosure pursuant to §3-8-2b of this code and, upon request, shall make
83 such records and receipts available to the Secretary of State or county clerk for the purpose of an
84 audit as provided in §3-8-7 of this code.

85 (h) Any person who willfully fails to comply with this section is guilty of a misdemeanor and,
86 upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more than one
87 year, or both fined and confined.

88 (i)(1) Any person or political committee who is required to file a statement under this
89 section shall file the statement electronically in accordance with such rules as the Secretary of
90 State may promulgate.

91 (2) The Secretary of State shall make any document filed electronically, pursuant to this
92 subsection, accessible to the public on the Internet not later than 24 hours after the document is
93 received by the secretary.

94 (3) In promulgating a rule under this subsection, the secretary shall provide methods, other

95 than requiring a signature on the document being filed, for verifying the documents covered by the
96 rule. Any document verified under any of the methods shall be treated for all purposes, including
97 penalties for perjury, in the same manner as a document verified by signature.

98 (j) This section does not apply to candidates for federal office.

99 (k) The Secretary of State may promulgate emergency and legislative rules, in accordance
100 with the provisions of chapter 29A of this code, to establish guidelines for the administration of this
101 section.

§3-8-2b. Disclosure of electioneering communication.

1 (a) Every person who has spent:

2 (1) A total of \$5,000 or more for the direct costs of purchasing, producing or disseminating
3 electioneering communications during any calendar year; or

4 (2) A total of \$1,000 or more on or after the 15th day but more than 12 hours before the day
5 of any election for the direct costs of purchasing, producing or disseminating electioneering
6 communications during any calendar year shall, within 24 hours of each disclosure date, file with
7 the Secretary of State a statement which contains all of the information listed in subsection (b) of
8 this section.

9 (b)(1) The name of the person making the expenditure, the name of any person sharing or
10 exercising direction or control over the activities of the person making the expenditure and the
11 name of the custodian of the books and accounts of the person making the expenditure;

12 (2) If the person making the expenditure is not an individual, the principal place of business
13 of the partnership, committee, association, organization or group which made the expenditure;

14 (3) The amount of each expenditure of more than \$1,000 made for electioneering
15 communications during the period covered by the statement and the name of the person to whom
16 the expenditure was made;

17 (4) The elections to which the electioneering communications pertain, the names, if known,
18 of the candidates referred to or to be referred to therein, whether the electioneering

19 communication is intended to support or oppose the identified candidates and the amount of the
20 total expenditure reported in subdivision (3) of this subsection spent to support or oppose each of
21 the identified candidates; and

22 (5) The names and addresses of any contributors who contributed a total of more than
23 \$1,000 between the first day of the preceding calendar year and the disclosure date and whose
24 contributions were ~~used to pay for~~ made for the purpose of furthering the electioneering
25 communications.

26 (c) With regard to the contributors required to be listed pursuant to subdivision (5),
27 subsection (b) of this section, the statement shall also include:

28 (1) The month, day and year that the contributions of any single contributor exceeded
29 \$250;

30 (2) If the contributor is a political action committee, the name and address the political
31 action committee registered with the State Election Commission;

32 (3) If the contributor is an individual, the name and address of the individual, his or her
33 occupation, the name and address of the individual's current employer, if any, or, if the individual is
34 self-employed, the name and address of the individual's business, if any;

35 (4) A description of the contribution, if other than money;

36 (5) The value in dollars and cents of the contribution.

37 (d) (1) Any person who makes a contribution for the purpose of funding the direct costs of
38 purchasing, producing or disseminating an electioneering communication under this section shall,
39 at the time the contribution is made, provide his or her name and address to the recipient of the
40 contribution;

41 (2) Any individual who makes contributions totaling \$250 or more between the first day of
42 the preceding calendar year and the disclosure date for the purpose of funding the direct costs of
43 purchasing, producing or disseminating electioneering communications shall, at the time the
44 contribution is made, provide the name of his or her occupation and of his or her current employer,

45 if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient of
46 the contribution.

47 (e) In each electioneering communication, a statement shall appear or be presented in a
48 clear and conspicuous manner that:

49 (1) Clearly indicates that the electioneering communication is not authorized by the
50 candidate or the candidate's committee; and

51 (2) Clearly identifies the person making the expenditure for the electioneering
52 communication: *Provided*, That if the electioneering communication appears on or is disseminated
53 by broadcast, cable or satellite transmission, the statement required by this subsection must be
54 both spoken clearly and appear in clearly readable writing at the end of the communication.

55 (f) Within five business days after receiving a disclosure of electioneering communications
56 statement pursuant to this section, the Secretary of State shall make information in the statement
57 available to the public through the Internet.

58 (g) For the purposes of this section, a person is considered to have made an expenditure
59 when the person has entered into a contract to make the expenditure at a future time.

60 (h) The Secretary of State is hereby directed to propose legislative rules and emergency
61 rules implementing this section for legislative approval in accordance with ~~the provisions of~~ §29A-
62 3-1 *et seq.* of this code.

63 (i) If any person, including, but not limited to, a political organization (as defined in Section
64 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any expenditure for
65 electioneering communications which is coordinated with and made with the cooperation, consent
66 or prior knowledge of a candidate, candidate's committee or agent of a candidate, the expenditure
67 shall be treated as a contribution and expenditure by the candidate. If the expenditure is
68 coordinated with and made with the cooperation or consent of a state or local political party or
69 committee, agent or official of that party, the expenditure shall be treated as a contribution to and
70 expenditure by the candidate's party.

71 (j) This section does not apply to candidates for federal office. This section is not intended
72 to restrict or to expand any limitations on, obligations of or prohibitions against any candidate,
73 committee, agent, contributor or contribution contained in any other provision of this chapter.

NOTE: The purpose of this bill is to clarify reporting thresholds and donor disclosure requirements for purposes of making contributions to membership organization political action committees, independent expenditures and electioneering communications.

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