WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5362

By Delegate Rohrbach

[Introduced January 30, 2024; Referred to the Committee on the Judiciary]

A BILL to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended, related to defining protections for election officials, workers, and poll workers; clarifying protections for those working in elections; reducing interference with election workers; actions taken before elections to ensure integrity; and increasing election security and amending the form for poll worker registration.

Be it enacted by the Legislature of West Virginia:

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; protections for election workers.

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

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

(c) A person may not, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision of the state, solicit orally or by written communication delivered within the room or building, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the state, or a political subdivision of the state. An officer, agent, clerk, or employee of the federal government, or of this state, or any political subdivision of the state, who may have charge or control of any building, office, or room, occupied for any official purpose, may not knowingly permit any person to enter any building, office, or room, occupied for any official purpose, for the purpose of soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision of the state.

(d) Except as provided in §3‑8‑8 of this code, a person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies, or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land, or buildings, directly or indirectly, make any contribution to any political party, committee, or candidate for public office, or to any person for political purposes or use nor may any person or firm solicit any contributions for any purpose during any period.

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

(f) A person may not, directly or indirectly, make any contribution in excess of the amounts permitted by §3‑8‑5c of this code, in connection with any campaign for nomination or election to or on behalf of any statewide office, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any of the offices.

(g) It is unlawful for any person to create, establish, or organize more than one political committee with the intent to avoid or evade the contribution limitations contained in this article.

(h) A person may not, directly or indirectly, make contributions to a state party executive committee or caucus campaign committee which, in the aggregate, are in excess of the amounts permitted by §3‑8‑5c of this code in any calendar year.

(i) The limitations on contributions contained in this section do not apply to transfers among a state party executive committee, a caucus campaign committee, and a national committee of the same political party: *Provided*, That the moneys transferred may only be used for voter registration and get‑out‑the‑vote activities of the state committees.

(j) A person may not solicit any contribution, other than contributions to a campaign for or against a county or local government ballot issue, from any nonelective salaried employee of the state government or of any of its subdivisions: *Provided*, That in no event may any person acting in a supervisory role solicit a person who is a subordinate employee for any contribution. A person may not coerce or intimidate any nonelective salaried employee into making a contribution. A person may not coerce or intimidate any nonsalaried employee of the state government or any of its subdivisions into engaging in or refraining from any form of political activity. The provisions of this subsection may not be construed to prevent any employee from making a contribution or from engaging in political activity voluntarily without coercion, intimidation, or solicitation.

(k) A person may not solicit a contribution from any other person without informing the other person at the time of 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.

(l) A person may not 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.

(m) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than ~~$1,000~~ $2,000, or confined in jail for not more than one year, or both fined and confined.

(n) Election Officials and workers, whether salaried, non-salaried or contracted, including poll workers, shall be protected by West Virginia law from threats, intimidation, harassment and/or coercion that would interfere with their ability to perform their duties during the process of an election and their normal duties at a polling place. That threats, intimidation, harassment, or coercion against the family or household member of an election official, including salaried, non-salaried, or contracted workers, including poll workers, shall be protected under equal penalty.

(1) A person may not, without consent, disseminate or make publicly available, including but not limited to the use of the internet, the personal information of an election worker, salaried, non-salaried or contracted, or that of their family and/or household members.

(2) Personal information includes but is not limited to the home address, telephone number, directions, or photographs of the home or alternate contact information of an election official or worker, including a poll worker, salaried, non-salaried or contracted including that of their family and/or household members.

(3) Acts committed in advance of an election that would interfere with that worker’s ability to perform their duties or following an election to retaliate for an election outcome against an election official, election worker, including a poll worker, shall be held under equal penalty as set forth in this code.

(o) Election workers, as defined, shall not be verbally or visually harassed by signs or weapons, or physically obstructed when entering or exiting a polling place or any other location where they are fulfilling the duties for which they are responsible as part of the election process.

(p) This bill shall be effective upon passage and changes made to this section during the 2024 Regular Session of West Virginia Legislature shall be added as an addendum to poll worker registration forms provided by the West Virginia Secretary of State.

(q) Notice of the changes made to this section during the 2024 Regular Session of the West Virginia Legislature shall be posted in all precincts to promote the safety and security of all election workers.

NOTE: The purpose of this bill is to provide for additional protections offered to those people working in elections.

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