

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 491

By Senators Woodrum and Oliverio

[Introduced February 14, 2025; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §3-8-2 of the Code of West Virginia, 1931, as amended, relating to
2 expanding the time frame for certain independent expenditure reporting requirements from
3 15 to 30 days; reducing the spending threshold for reporting independent expenditures
4 made for any statewide, legislative, or multicounty judicial candidate from \$5,000 to
5 \$1,000; reducing the spending threshold in the aggregate for independent expenditures
6 from \$10,000 to \$2,500; and requiring both written and spoken disclaimers on certain
7 digital communications.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§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 and address of the person making the expenditure;

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

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

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

13 (5) The amount of each independent expenditure during the period covered by the
14 statement and the name, mailing address, principal place of business, and telephone number of
15 the person to whom the expenditure was made;

16 (6) The elections to which the independent expenditure pertains, the names, if known, of

the candidates referred to or to be referred to therein, whether the expenditure is intended to support or oppose the identified candidates, and the amount of the total expenditure reported pursuant to subdivision (5) of this subsection spent to support or oppose each of the identified candidates;

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

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

(A) The month, day, and year that the contributions of any single contributor exceeded \$1,000;

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

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

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

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

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

(10) A certification, under penalty of perjury, that the information contained in the statement is true and correct.

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

employed, the name of his or her business, if any, to the recipient of the contribution.

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

(d)(1) Any person or political committee that makes or contracts to make independent expenditures aggregating ~~\$5,000~~ \$1,000 or more for any statewide, legislative, or multicounty judicial candidate, or \$500 or more for any county office candidate, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, after the ~~15th~~ 30th day, but more than 12 hours before the date of an election, shall file a report on a form prescribed by the Secretary of State describing the expenditures within 24 hours: *Provided*, That a person making expenditures for any statewide or legislative candidate on or after the ~~15th~~ 30th day, but more than 12 hours before the day of any election meeting the criteria of this section, but which are subject to the disclosure requirements of §3-8-2b of this code, shall report such expenditures in accordance with the requirements of §3-8-2b of this code and may not file the report otherwise required by this subsection.

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

(e)(1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating ~~\$10,000~~ \$2,500 or more at any time, up to and including

the ~~15th~~ 30th day before the date of an election, shall file a report on a form prescribed by the Secretary of State describing the expenditures within 48 hours.

(2) Any person who files a report under subdivision (1) of this subsection shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional ~~\$10,000~~ \$2,500 with respect to the same election as that to which the initial report relates.

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

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

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

(g) Any person who has spent a total of ~~\$5,000~~ \$1,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications during any calendar year shall maintain all ~~financial records and receipts~~ documents, in any medium, related to such expenditure for a period of five years following the filing of a disclosure pursuant to §3-8-2b of this code and, upon request, shall make such records and receipts available to the Secretary of State or county clerk for the purpose of an audit as provided in §3-8-7 of this code.

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

(i)(1) Any person or political committee who is required to file a statement under this section shall file the statement electronically in accordance with rules promulgated by the Secretary of State.

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

(3) In promulgating a rule under this subsection, the secretary shall provide methods, other than requiring a signature on the document being filed, for verifying the documents covered by the rule. Any document verified by such methods shall be treated for all purposes, including penalties for perjury, in the same manner as a document verified by signature.

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

(k) The Secretary of State may propose emergency and legislative rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code.

NOTE: The purpose of this bill is to increase transparency in independent expenditure political communications by increasing the timeframe for when independent expenditures trigger a report, reducing the spending thresholds for reporting, and requiring written and spoken disclaimers for certain digital 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.