

1 **H. B. 2447**

2
3 (By Delegate Hunt)

4 [Introduced February 14, 2013; referred to the
5 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 regulation and control of
12 elections; and requiring that advertising must identify
13 candidates' party affiliation.

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

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

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

18 **§3-8-12. Additional acts forbidden; circulation of written matter;**
19 **newspaper advertising; solicitation of contributions;**
20 **intimidation and coercion of employees; promise of**
21 **employment or other benefits; limitations on**
22 **contributions; public contractors; penalty.**

23 (a) A person may not publish, issue or circulate, or cause to

1 be published, issued or circulated, any anonymous letter, circular,
2 placard, radio or television advertisement or other publication
3 supporting or aiding the election or defeat of a clearly identified
4 candidate.

5 (b) An owner, publisher, editor or employee of a newspaper or
6 other periodical may not insert, either in its advertising or
7 reading columns, any matter, paid for or to be paid for, which
8 tends to influence the voting at any election, unless directly
9 designating it as a paid advertisement and stating the name of the
10 person authorizing its publication, ~~and~~ the candidate in whose
11 behalf it is published and the candidate's party affiliation or
12 that he or she is an independent if no party affiliation.

13 (c) A person may not, in any room or building occupied for the
14 discharge of official duties by any officer or employee of the
15 state or a political subdivision of the state, solicit orally or by
16 written communication delivered within the room or building, or in
17 any other manner, any contribution of money or other thing of value
18 for any party or political purpose, from any postmaster or any
19 other officer or employee of the federal government, or officer or
20 employee of the state, or a political subdivision of the state. An
21 officer, agent, clerk or employee of the federal government, or of
22 this state, or any political subdivision of the state, who may have
23 charge or control of any building, office or room, occupied for any
24 official purpose, may not knowingly permit any person to enter any

1 building, office or room, occupied for any official purpose for the
2 purpose of soliciting or receiving any political assessments from,
3 or delivering or giving written solicitations for, or any notice
4 of, any political assessments to, any officer or employee of the
5 state, or a political subdivision of the state.

6 (d) Except as provided in section eight of this article, a
7 person entering into any contract with the state or its
8 subdivisions, or any department or agency of the state, either for
9 rendition of personal services or furnishing any material, supplies
10 or equipment or selling any land or building to the state, or its
11 subdivisions, or any department or agency of the state, if payment
12 for the performance of the contract or payment for the material,
13 supplies, equipment, land or building is to be made, in whole or in
14 part, from public funds may not, during the period of negotiation
15 for or performance under the contract or furnishing of materials,
16 supplies, equipment, land or buildings, directly or indirectly,
17 make any contribution to any political party, committee or
18 candidate for public office or to any person for political purposes
19 or use; nor may any person or firm solicit any contributions for
20 any purpose during any period.

21 (e) A person may not, directly or indirectly, promise any
22 employment, position, work, compensation or other benefit provided
23 for, or made possible, in whole or in part, by act of the
24 Legislature, to any person as consideration, favor or reward for

1 any political activity for the support of or opposition to any
2 candidate, or any political party in any election.

3 (f) Except as provided in section eight of this article, a
4 person may not, directly or indirectly, make any contribution in
5 excess of the value of \$1,000 in connection with any campaign for
6 nomination or election to or on behalf of any statewide office, in
7 connection with any other campaign for nomination or election to or
8 on behalf of any other elective office in the state or any of its
9 subdivisions, or in connection with or on behalf of any person
10 engaged in furthering, advancing, supporting or aiding the
11 nomination or election of any candidate for any of the offices.

12 (g) A political organization (as defined in Section 527(e)(1)
13 of the Internal Revenue Code of 1986) may not solicit or accept
14 contributions until it has notified the Secretary of State of its
15 existence and of the purposes for which it was formed. During the
16 two-year election cycle, a political organization (as defined in
17 Section 527 (e) (1) of the Internal Revenue Code of 1986) may not
18 accept contributions totaling more than \$1,000 from any one person
19 prior to the primary election and contributions totaling more than
20 \$1,000 from any one person after the primary and before the general
21 election.

22 (h) It is unlawful for any person to create, establish or
23 organize more than one political organization (as defined in
24 Section 527(e)(1) of the Internal Revenue Code of 1986) with the

1 intent to avoid or evade the contribution limitations contained in
2 subsection (g) of this section.

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

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

18 (k) A person may not solicit any contribution, other than
19 contributions to a campaign for or against a county or local
20 government ballot issue, from any nonelective salaried employee of
21 the state government or of any of its subdivisions: *Provided,* That
22 in no event may any person acting in a supervisory role solicit a
23 person who is a subordinate employee for any contribution. A
24 person may not coerce or intimidate any nonelective salaried

1 employee into making a contribution. A person may not coerce or
2 intimidate any nonsalaried employee of the state government or any
3 of its subdivisions into engaging in any form of political
4 activity. The provisions of this subsection may not be construed
5 to prevent any employee from making a contribution or from engaging
6 in political activity voluntarily without coercion, intimidation or
7 solicitation.

8 (l) A person may not solicit a contribution from any other
9 person without informing the other person at the time of the
10 solicitation of the amount of any commission, remuneration or other
11 compensation that the solicitor or any other person will receive or
12 expect to receive as a direct result of the contribution being
13 successfully collected. Nothing in this subsection may be
14 construed to apply to solicitations of contributions made by any
15 person serving as an unpaid volunteer.

16 (m) A person may not place any letter, circular, flyer,
17 advertisement, election paraphernalia, solicitation material or
18 other printed or published item tending to influence voting at any
19 election in a roadside receptacle unless it is: (1) Approved for
20 placement into a roadside receptacle by the business or entity
21 owning the receptacle; and (2) contains a written acknowledgment of
22 the approval. This subdivision does not apply to any printed
23 material contained in a newspaper or periodical published or
24 distributed by the owner of the receptacle. The term "roadside

1 receptacle" means any container placed by a newspaper or periodical
2 business or entity to facilitate home or personal delivery of a
3 designated newspaper or periodical to its customers.

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

8 (o) The provisions of subsection (k) of this section,
9 permitting contributions to a campaign for or against a county or
10 local government ballot issue shall become operable on and after
11 January 1, 2005.

12 (p) The limitations on contributions established by subsection
13 (g) of this section do not apply to contributions made for the
14 purpose of supporting or opposing a ballot issue, including a
15 constitutional amendment.

16 (q) A person may not publish, issue, circulate or place, or
17 cause to be published, issued, circulated or placed, any political
18 signs or advertisements, including billboards, supporting or aiding
19 the election of a clearly identified candidate for a West Virginia
20 political office unless the candidate's party affiliation is
21 disclosed, or that he or she is an independent if no party
22 affiliation.

NOTE: The purpose of this bill is to require all political

signs, billboards, etc., must identify the candidate's party affiliation or that he or she is an independent if no party affiliation.

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