

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 539

BY SENATORS FERNS AND RUCKER

[Originating in the Committee on the Judiciary;

reported on March 23, 2017]

1 A BILL to amend and reenact §3-8-1, §3-8-1a, §3-8-2, §3-8-2b, §3-8-2c, §3-8-5, §3-8-5a, §3-8-
2 5b, §3-8-5d, §3-8-5f, §3-8-7, §3-8-8, §3-8-9, §3-8-10, §3-8-11 and §3-8-12 of the Code of
3 West Virginia, 1931, as amended; and that said code be amended by adding thereto a
4 new section, designated §3-8-9a, all relating generally to the regulation and control of
5 financing elections; modifying legislative findings; defining terms; modifying definitions;
6 exempting candidates for delegate to national presidential nominating convention for a
7 political party from certain recordkeeping and filing requirements; updating references to
8 federal code; requiring additional information to be provided by entities making
9 independent expenditures; increasing threshold dollar amounts to be met for certain
10 expanded disclosures of contributors to independent expenditures; increasing threshold
11 dollar amounts for reporting on certain independent expenditures; requiring additional
12 information to be provided by entities engaging in electioneering communication; requiring
13 disclosure of certain contributor information when contributions were made for explicit
14 purpose of financing any electioneering communication; increasing threshold dollar
15 amounts for disclosure of contributions or expenditures by party headquarters committees;
16 requiring candidates and treasurers of political committees to keep certain detailed
17 accounts; requiring entities making reportable independent expenditures or electioneering
18 communications to keep certain detailed accounts; requiring reports to be kept of
19 contributions received for explicit purpose of furthering independent expenditures or
20 electioneering communications and all disbursements for independent expenditures or
21 electioneering communications; increasing threshold dollar amounts for certain
22 transactions to be disclosed in sworn statement by candidate or political committee;
23 clarifying definition of "financial transactions"; requiring additional information be provided
24 in financial statements; prohibiting receipt of currency as contribution; eliminating separate
25 disclosure schedule and rules for membership organizations that raise funds for political
26 purposes by payroll deduction; requiring political action committees, ballot issue

27 committees, electioneering communications and independent expenditures file financial
28 statements electronically with Secretary of State; making misdemeanor offense for receipt
29 of contribution of currency; setting penalties; providing exception where currency received
30 in exchange for goods or services provided by recipient; clarifying discretion of court in
31 penalties for failure to file sworn itemized financial statement; prohibiting contributions by
32 membership organizations to political committees; prohibiting contributions by
33 membership organizations to candidates; permitting membership organizations to solicit
34 contributions to separate segregated fund; making it unlawful for membership organization
35 or separate segregated fund to make contribution or expenditure by using money or thing
36 of value secured by physical force, job discrimination, financial reprisal, or by the threat
37 thereof; making it unlawful for membership organization member soliciting contributions
38 to fail to inform person that funds were being solicited for separate segregated fund at the
39 time of solicitation; making it unlawful for person soliciting contribution for membership
40 organization to fail to inform person of right to refuse to contribute without reprisal; making
41 it unlawful for separate segregated fund established by membership organization to solicit
42 contributions from persons other than members and their families; making it unlawful for
43 separate segregated fund established by membership organization to contribute
44 membership organization funds; prohibiting separate segregated fund from receiving
45 contributions from members of organization, immediate families and executive or
46 administrative personnel and their immediate families; prohibiting membership
47 organization from engaging in job discrimination or job promotion or transfer discrimination
48 because of member's failure to make contribution to membership organization or separate
49 segregated fund; prohibiting corporation or membership organization fund making
50 contribution to separate segregated fund for purpose of making contribution to candidate
51 or candidate's committee; exempting separate segregated funds from scope of prohibition;
52 requiring membership organizations to permit groups of employees represented by bona

53 fide political action committee to use real property of membership organization for certain
54 purposes; setting penalties; prohibiting reimbursement by membership organization of the
55 amount of any fine imposed; directing prosecuting attorney to present alleged violations
56 of article relating to regulation and control of elections referred by State Election
57 Commission to grand jury upon determining that there is a reason to believe a violation
58 occurred; authorizing fact of investigation to be disclosed to persons or entities being
59 investigated by State Election Commission; eliminating misdemeanor for disclosure of fact
60 of complaint, investigation, report or proceedings; eliminating outdated language; making
61 lawful election expense for payment of necessary employees; making lawful election
62 expense payment of food and drink for campaign-related purposes and for entertaining of
63 campaign volunteers; making lawful election expense payment for certain legal and
64 accounting service rendered to candidate or candidate committee; making lawful election
65 expense payment of fees associated with campaign; providing that candidate may not pay
66 fines assessed against candidate or candidate's committee with campaign funds; making
67 lawful election expense transfers to political party committees when committee is acting
68 in role of vendor; clarifying that no such transfer shall involve coordination; making lawful
69 election expense any political expenditure; prohibiting contributions by political action
70 committee to another political action committee if contribution is earmarked for contribution
71 to any candidate committee or political party; permitting certain coordination between state
72 committee of political party or caucus campaign committee and certain candidates;
73 requiring coordinated communications to include statement clearly identifying that
74 communications were made in coordination with candidate or candidate's committee;
75 authorizing contribution of excess campaign funds prior to the general election; removing
76 cap on amount of contributions to state party executive committee or caucus campaign
77 committee; prohibiting employer or agent from giving any notice or information to
78 employees containing any threat intended or calculated to influence decisions of

79 employees regarding political activity; clarifying that employer can express opinion of
80 employer without constituting a violation; clarifying that person cannot pay owner,
81 publisher, editor or employee of newspaper or periodical to advocate or oppose candidate,
82 political party or measure without reporting as independent expenditure or electioneering
83 communication where appropriate; eliminating prohibition on publication, issuance or
84 circulation of anonymous communications supporting or aiding election or defeat of clearly
85 identified candidate; prohibiting certain persons contracting with state from soliciting
86 contributions to any candidate or political party other than for independent expenditures;
87 setting contribution limits to candidates for nomination and general elections; setting
88 contribution limits to state, district or county party committees; setting contribution limits to
89 caucus campaign committees; setting contribution limits to political action committees;
90 providing exception to limits on contribution when political action committee makes only
91 independent expenditures; providing for indexing of contribution limitations to candidates;
92 directing Secretary of State to calculate new contribution limits after each two-year election
93 cycle; directing State Election Commission announce adjustments within thirty days of
94 publication of relevant index; providing new contribution limits remain in effect for two-year
95 election cycle; permitting unlimited transfers between state party executive committee,
96 caucus campaign committee and national committee of same political party for voter
97 registration and get-out-the-vote activities of state committees; prohibiting coercion or
98 intimidation of nonelective salaried employee of state government to refrain from any form
99 of political activity; eliminating requirement that person soliciting contributions disclose
100 amount of commission, remuneration or other compensation to be received as a direct
101 result of contribution being successfully collected; prohibiting employer from withholding
102 or diverting portion of employee's wages or salary for use for certain political activities
103 except upon express written request of employee; requiring employee request be upon
104 form provided by Secretary of State; limiting validity of request for twelve months; defining

105 term “political activities”; setting internal effective date for prohibition and required written
106 request; updating language throughout; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

1 That §3-8-1, §3-8-1a, §3-8-2, §3-8-2b, §3-8-2c, §3-8-5, §3-8-5a, §3-8-5b, §3-8-5d, §3-8-
2 5f, §3-8-7, §3-8-8, §3-8-9, §3-8-10, §3-8-11 and §3-8-12 of the Code of West Virginia, 1931, as
3 amended, be amended and reenacted, and that said code be amended by adding thereto a new
4 section, designated §3-8-9a, all to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1. Provisions to regulate and control elections.

1 (a) The Legislature finds that:

2 ~~(1) West Virginia’s population is 1,808,344, ranking 37th among the fifty states.~~

3 ~~(2) State Senate districts have a population of approximately one hundred six thousand~~
4 ~~three hundred seventy three, and the average Delegate district has a population of approximately~~
5 ~~thirty one thousand, one hundred seventy eight. The size of these districts is substantially smaller~~
6 ~~than the United States Senatorial and Congressional Districts.~~

7 (3) When the relatively small size of the state’s legislative and other voting districts is
8 combined with the economics and typical uses of various forms of electioneering communication,
9 history shows that nonbroadcast media is and will continue to be a widely used means of making
10 campaign related communications to target relevant audiences. Consequently, nonbroadcast
11 communications are prevalent during elections.

12 (4) Disclosure provisions are appropriate legislative weapons against the reality or
13 appearance of improper influence stemming from the dependence of candidates on large
14 campaign contributions, and the ceilings imposed accordingly serve the basic governmental
15 interest in safeguarding the integrity of the electoral process without directly impinging upon the
16 rights of individual citizens and candidates to engage in political debate and discussion.

17 ~~(5)~~ When narrowly tailored to minimize any infringement on the right to free speech
18 guaranteed by the United States and West Virginia Constitutions, or upon the rights to engage in
19 political debate and discussion, disclosure of contributions and expenditures by entities that
20 engage in electoral advocacy is an appropriate means to safeguard the electoral process against
21 the appearance of improper influence from large campaign expenditures.

22 ~~(5)~~ (6) Disclosure of expenditures ~~serve~~ serves a substantial governmental interest in
23 informing the electorate and preventing the corruption of or appearance of corruption in the
24 political process.

25 ~~(6)~~ (7) Disclosure by persons and entities that make expenditures for communications that
26 expressly advocate the election or defeat of clearly identified candidates or perform its functional
27 equivalent, is a reasonable and minimally restrictive method of furthering First Amendment values
28 by public exposure of the state election system.

29 ~~(7)~~ (8) Failing to regulate nonbroadcast media messages would permit those desiring to
30 influence elections to avoid the principles and policies that are embodied in existing state law.

31 ~~(8)~~ (9) The regulation of the various types of nonbroadcast media in addition to broadcast
32 media, is tailored to meet the circumstances found in the State of West Virginia.

33 ~~(9)~~ (10) Nonbroadcast media such as newspapers, magazines or other periodicals have
34 proven to be effective means of election communication in West Virginia. Broadcast, satellite and
35 nonbroadcast media have all been used to influence election outcomes.

36 ~~(10)~~ (11) Certain nonbroadcast communications, such as newspaper inserts, can be more
37 effective campaign methods than broadcast media because such communications can be
38 targeted to registered voters or historical voters in the particular district. In contrast, broadcasted
39 messages reach all of the general public, including person ineligible to vote in the district.

40 ~~(11)~~ (12) Nonbroadcast media communications in the final days of a campaign can be
41 particularly damaging to the public's confidence in the election process because they reduce or
42 make impossible an effective response.

43 ~~(12)~~ (13) Identifying those funding nonbroadcast media campaigns in the final days of a
44 campaign may at least permit voters to evaluate the credibility of the message.

45 ~~(13)~~ (14) In West Virginia, contributions up to the amounts specified in this article allow
46 contributors to express their opinions, level of support and their affiliations.

47 ~~(14)~~ (15) In West Virginia, campaign expenditures by entities and persons who are not
48 candidates have been increasing. Public confidence is eroded when substantial amounts of such
49 money, the source of which is hidden or disguised, is expended. This is particularly true during
50 the final days of a campaign.

51 ~~(15)~~ (16) In West Virginia, contributions to political organizations, defined in Section
52 527(e)(1) of the Internal Revenue Code of 1986, substantially larger than the amounts permitted
53 to be received by a candidate's political committee have been recorded and are considered by
54 the Legislature to be large contributions.

55 ~~(16)~~ (17) Independent expenditures intended to influence candidates' campaigns in the
56 state are increasingly utilizing nonbroadcast media to support or defeat candidates.

57 ~~(17)~~ (18) Identification of persons or entities funding ~~political advertisements~~ electoral
58 advocacy assists in enforcement of the contribution and expenditure limitations established by
59 this article and ~~simply~~ informs voters of the actual identities of persons or entities advocating the
60 election or defeat of candidates.

61 ~~(18)~~ (19) Identification of persons or entities funding ~~political advertisements~~ electoral
62 advocacy allows voters to evaluate the credibility of the message contained in the advertisement.

63 ~~(19)~~ (20) Disclosure of the identity of persons or entities funding ~~political communications~~
64 ~~regarding candidates~~ electoral advocacy bolsters the right of listeners to be fully informed.

65 (b) Political campaign contributions, receipts and expenditures of money, advertising,
66 influence and control of employees, and other economic, political and social control factors
67 incident to primary, special and general elections shall be regulated and controlled by the
68 provisions of this article and other applicable provisions of this chapter.

§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) "Ballot issue committee" means a political action committee that advocates or opposes
6 a ballot issue. The threshold amount for ballot issue committees is \$5,000 for contributions or
7 political expenditures.

8 ~~(2)~~ (3) "Billboard advertisement" means a commercially available outdoor advertisement,
9 sign or similar display regularly available for lease or rental to advertise a person, place or product.

10 ~~(3)~~ (4) "Broadcast, cable or satellite communication" means a communication that is
11 publicly distributed by a television station, radio station, cable television system or satellite
12 system.

13 ~~(4)~~ (5) "Candidate" means an individual who:

14 (A) Has filed a certificate of announcement under section seven, article five of this chapter
15 or a municipal charter;

16 (B) Has filed a declaration of candidacy under section twenty-three, article five of this
17 chapter;

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

19 (D) Has declared a write-in candidacy or otherwise publicly declared his or her intention
20 to seek nomination or election for any state, district, county or municipal office or party office to
21 be filled at any primary, general or special election.

22 ~~(5)~~ (6) "Candidate's committee" or "candidate committee" means a political committee
23 established with the approval of or in cooperation with a candidate or a prospective candidate to
24 explore the possibilities of seeking a particular office or to support or aid his or her nomination or
25 election to an office in an election cycle. If a candidate directs or influences the activities of more

26 than one active committee in a current campaign, those committees shall be considered one
27 committee for the purpose of contribution limits.

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

32 ~~(6)~~ (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 through
35 an unambiguous reference to his or her status as a candidate, such as "the Democratic candidate
36 for Governor" or "the ~~Republican~~ incumbent candidate for Supreme Court of Appeals".

37 ~~(7)~~ (9) *Contribution.* —

38 (A) "Contribution" means a gift, subscription, loan, assessment, payment for services,
39 dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other
40 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other
41 tangible thing of value to a person, ~~made for the purpose of influencing the nomination, election~~
42 ~~or defeat of a candidate~~ given to any entity that is registered or is required to register as a political
43 action committee or political committee at the time the contribution is made, or that is given to be
44 used specifically for making contributions to other recipients for making political expenditures or
45 any political expenditure that is made in coordination with a candidate, candidate committee,
46 ballot issue committee or political party committee. An offer or tender of a contribution is not a
47 contribution if expressly and unconditionally rejected or returned.

48 (B) A contribution does not include volunteer personal services provided without
49 compensation or any unreimbursed payment for expenses paid by the volunteer related to such
50 volunteer activity; any cost incurred for covering or carrying a news story, commentary or editorial
51 by a broadcasting station or cable television operator, Internet website or newspaper or other

52 periodical publication, including an Internet or other electronic publication: *Provided*, That the cost
53 for the news story, commentary or editorial is not paid for by, and the medium is not owned or
54 controlled by, a candidate, candidate committee, ballot issue committee, political party committee
55 or other political committee; and the payment of or provision of legal and accounting services
56 rendered to a candidate, candidate committee, ballot issue committee, political party committee
57 or other political committee if the services are solely for the purpose of ensuring compliance with
58 or challenging the constitutional validity or interpretation of the provisions of this chapter:
59 *Provided, however*, That a nonmonetary contribution is to be considered at fair market value for
60 reporting requirements and contribution limitations.

61 ~~(8)~~ (10) “Corporate political action committee” means a political action committee that is a
62 separate segregated fund of a corporation that may only accept contributions from its restricted
63 group as outlined by the rules of the State Election Commission.

64 ~~(9)~~ (11) “Direct costs of purchasing, producing or disseminating electioneering
65 communications” means:

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

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

72 ~~(40)~~ (12) “Disclosure date” means either of the following:

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

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

79 ~~(14)~~ (13) "Election" means any primary, general, ~~or special,~~ local or ballot issue election
80 conducted under the provisions of this code or under the charter of any municipality at which the
81 voters nominate or elect candidates for public office, or vote on a constitutional amendment,
82 special levy, bond issue, local option referendum, municipal charter or revision, an increase or
83 decrease of corporate limits or any other question that is placed before the voters for a binding
84 decision. For purposes of this article, each primary, general, special, local or ballot issue ~~or local~~
85 election constitutes a separate election. This definition is not intended to modify or abrogate the
86 definition of the term "nomination" as used in this article.

87 ~~(12)~~ (14) *Electioneering communication.* —

88 (A) "Electioneering communication" means any paid communication made by broadcast,
89 cable or satellite signal, mass mailing, telephone bank, billboard advertisement or published in
90 any newspaper, magazine or other periodical that:

91 (i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney
92 General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, ~~or the~~
93 Legislature, circuit judge, family court judge, magistrate or any county office;

94 (ii) Is publicly disseminated within:

95 (I) Thirty days before a the primary election day at which the nomination for office sought
96 by the candidate is to be determined; or

97 (II) Sixty days before a the general or special election day at which the office sought by
98 the candidate is to be filled; and

99 (iii) Is targeted to the relevant electorate. ~~Provided, That for purposes of the general~~
100 ~~election of 2008 the amendments to this article are effective October 1, 2008~~

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

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

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

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

111 (ii) Activity by a candidate committee, party executive committee or caucus committee, or
112 a political action committee that is required to be reported to the State Election Commission or
113 the Secretary of State as an expenditure pursuant to section five of this article or the rules of the
114 State Election Commission or the Secretary of State promulgated pursuant to such provision:
115 *Provided*, That independent expenditures by a party executive committee or caucus committee
116 or a political action committee required to be reported pursuant to subsection (b), section two of
117 this article are not exempt from the reporting requirements of this section;

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

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

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

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

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

134 (viii) A communication, such as a voter's guide, which refers to all of the candidates for
135 one or more offices, which contains no appearance of endorsement for or opposition to the
136 nomination or election of any candidate and which is intended as nonpartisan public education
137 focused on issues and voting history;

138 ~~(13)~~ (15) "Expressly advocating" means any communication that:

139 (A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the
140 Democratic nominee for ~~Supreme Court~~ House of Delegates", "cast your ballot for the Republican
141 challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life" or "vote
142 Pro-Choice" accompanied by a listing of clearly identified candidates described as pro-life or pro-
143 choice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates,
144 "reject the incumbent";

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

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

151 ~~(14)~~ (16) "Financial agent" means any individual acting for and by himself or herself, or
152 any two or more individuals acting together or cooperating in a financial way to aid or take part in

153 the nomination or election of any candidate for public office, or to aid or promote the success or
154 defeat of any political party at any election.

155 ~~(15)~~ (17) "Fund-raising event" means an event such as a dinner, reception, testimonial,
156 cocktail party, auction or similar affair through which contributions are solicited or received by
157 such means as the purchase of a ticket, payment of an attendance fee or by the purchase of
158 goods or services.

159 ~~(16)~~ (18) "Independent expenditure" means an expenditure by a person: (A) Expressly
160 advocating the election or defeat of a clearly identified candidate; and (B) That is not made in
161 concert or cooperation with or at the request or suggestion of such candidate, his or her agents,
162 the candidate's authorized political committee or a political party committee or its agents.
163 ~~Supporting or opposing~~ Expressly advocating the election of a clearly identified candidate
164 includes ~~supporting or opposing~~ expressly advocating the election or defeat of candidates of a
165 political party. An expenditure ~~which~~ that does not meet the criteria for an independent
166 expenditure is considered a contribution.

167 (19) "In concert or cooperation with or at the request or suggestion of" means that a
168 candidate or his or her agent consulted with the sender regarding the content, timing, place,
169 nature or volume of a particular communication or communication to be made.

170 ~~(17)~~ (20) "Mass mailing" means a mailing by United States mail, facsimile or electronic
171 mail of more than five hundred pieces of mail matter of an identical or substantially similar nature
172 within any thirty-day period. For purposes of this subdivision, "substantially similar" includes
173 communications that contain substantially the same template or language, but vary in nonmaterial
174 respects such as communications customized by the recipient's name, occupation or geographic
175 location.

176 ~~(18)~~ (21) "Membership organization" means a group that grants ~~bona fide rights and~~
177 ~~privileges, such as the right to vote, to elect officers or directors and the ability to hold office, to~~
178 ~~its members~~ membership rights or privileges in its duly adopted bylaws and which uses a majority

179 of its membership dues and contributions for purposes other than ~~political purposes~~ contributions
180 or political expenditures. ~~“Membership organization” does not include organizations that grant~~
181 ~~membership upon receiving a contribution.~~

182 (19) (22) “Name” means the full first name, middle name or initial, if any, and full legal last
183 name of an individual and the full name of any association, corporation, committee or other
184 organization of individuals, making the identity of any person who makes a contribution apparent
185 by unambiguous reference.

186 (20) (23) “Person” means an individual, corporation, partnership, committee, association
187 and any other organization or group of individuals.

188 (21) (24) “Political action committee” means ~~a committee organized by one or more~~
189 ~~persons for the purpose of supporting or opposing the nomination or election of one or more~~
190 ~~candidates~~ any group of two or more individuals unrelated by marriage, or any other organization
191 or entity, that makes total contributions or political expenditures of more than the threshold amount
192 during any calendar year and the major purpose of which is the making of political contributions
193 or expenditures which are made for political purposes.

194 (A) A group or entity has the major purpose of making contributions or political
195 expenditures if, during any calendar year, the total amount of contributions or political
196 expenditures that it makes exceeds half of its total spending on all program activities, including
197 contributions or political expenditures. Total spending shall not include fundraising or
198 administrative expenses.

199 (B) The threshold amount shall be \$5,000 for contributions or political expenditures for a
200 candidacy or candidacies for statewide office and \$1,000 for a candidacy or candidacies for the
201 State Senate or House of Delegates.

202 (C) In any law-enforcement proceeding, investigation or litigation concerning a group or
203 entity’s alleged failure to register as a political committee, its principal purpose shall not be
204 considered before it has first been established by the applicable standard of evidence that the

205 group or entity has made total contributions or political expenditures of more than the threshold
206 amount.

207 (D) The following are types of political action committees:

208 ~~(A) (i)~~ A corporate political action committee, ~~as that term is defined by subdivision (8) of~~
209 ~~this section;~~

210 ~~(B) (ii)~~ A political action committee that is a separate segregated fund of a membership
211 organization, as that term is defined by subdivision (18) of this section, and that organization may
212 only accept contributions from its restricted group as outlined by the rules of the State Election
213 Commission;

214 ~~(C) (iii)~~ An unaffiliated political action committee, ~~as that term is defined by subdivision~~
215 ~~(29) of this section; and~~

216 (iv) A caucus campaign committee.

217 ~~(22)~~ (25) "Political committee" means any candidate committee, political action committee,
218 ballot issue committee, caucus campaign committee or political party committee.

219 (26) Political expenditure. —

220 (A) "Political expenditure" means the payment for:

221 (i) Any communications expressly advocating for the election or defeat of a clearly
222 identified candidate or candidates affiliated with a political party, or the passage or defeat of a
223 ballot issue; or

224 (ii) The republication of any candidate's, candidate committee's, ballot issue committee's,
225 political party committee's or political committee's campaign materials.

226 (B) Notwithstanding paragraph (A) of this subdivision, the following are not "political
227 expenditures":

228 (i) The republication of materials in a voter guide;

229 (ii) The republication of campaign materials commenting or explaining a candidate's
230 position on any issue and that does not expressly advocate the election or defeat of a candidate;

231 (iii) The republication of publicly available photographs or video footage of a candidate,
232 and that is devoid of any text or audio content in or from the original material; and

233 (iv) Anything that is excluded from the definition of a “political contribution.”

234 ~~(23)~~ (27) “Political party” means a political party as that term is defined by section eight,
235 article one of this chapter or any committee established, financed, maintained or controlled by the
236 party, including any subsidiary, branch or local unit thereof and including national or regional
237 affiliates of the party.

238 ~~(24)~~ (28) “Political party committee” means a committee established by a political party or
239 political party caucus for the purposes of engaging in the influencing of the election, nomination
240 or defeat of a candidate in any election.

241 ~~(25)~~ (29) “Political purposes” means supporting or opposing the nomination, election or
242 defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the
243 retirement of the debt of a candidate or political committee or the administration or activities of an
244 established political party or an organization which has declared itself a political party and
245 determining the advisability of becoming a candidate under the precandidacy financing provisions
246 of this chapter.

247 ~~(26)~~ (30) “Targeted to the relevant electorate” means a communication which refers to a
248 clearly identified candidate for statewide office or the Legislature and which can be received by
249 one hundred forty thousand or more individuals in the state in the case of a candidacy for
250 statewide office, eight thousand two hundred twenty or more individuals in the district in the case
251 of a candidacy for the State Senate and two thousand four hundred ten or more individuals in the
252 district in the case of a candidacy for the House of Delegates.

253 ~~(27)~~ (31) “Telephone bank” means telephone calls that are targeted to the relevant
254 electorate, other than telephone calls made by volunteer workers, regardless of whether paid
255 professionals designed the telephone bank system, developed calling instructions or trained
256 volunteers.

257 ~~(28)~~ (32) “Two-year election cycle” means the 24-month period that begins the day after
258 a general election and ends on the day of the subsequent general election.

259 ~~(29)~~ (33) “Unaffiliated political action committee” means a political action committee that
260 is not affiliated with a corporation or a membership organization.

§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting independent expenditures.

1 (a) Except for: (1) Candidates for party committeeman and committeewoman; ~~and~~ (2)
2 candidates for delegate to the national presidential nominating convention for a political party;
3 and ~~(3)~~ federal committees required to file under the provisions of ~~2 U.S.C. §434~~ 52 U. S. C.
4 §30104, all candidates for nomination or election and all ~~persons supporting, aiding or opposing~~
5 ~~the nomination, election or defeat of any candidate~~ political committees shall keep for a period of
6 six months records of receipts and expenditures which are made for political purposes. All of the
7 receipts and expenditures are subject to regulation by the provisions of this article. Verified
8 financial statements of the records and expenditures shall be made and filed as public records by
9 all candidates and by their financial agents, representatives or any person acting for and on behalf
10 of any candidate and by the treasurers of all political party committees.

11 (b)(1) In addition to any other reporting required by the provisions of this chapter, any
12 person who or entity that makes independent expenditures in an aggregate amount or value in
13 excess of \$1,000 during a calendar year shall file a disclosure statement, on a form prescribed
14 by the Secretary of State, that contains all of the following information:

15 (A) The name of (i) the person or entity making the expenditure; (ii) ~~the name of any person~~
16 ~~sharing or exercising direction or control over the activities of the person making the expenditure~~
17 if the person is an entity, the names and a mailing address for each officer and director and the
18 highest compensated employee of the entity; and (iii) the name of the custodian of the books and
19 accounts of the person making the expenditure;

20 (B) If the person making the expenditure is not an individual, the principal place of business
21 of the partnership, corporation, committee, association, organization or group which made the
22 expenditure;

23 (C) The amount of each expenditure of more than \$1,000 made during the period covered
24 by the statement and the name of the person to whom the expenditure was made;

25 (D) The elections to which the independent expenditure pertain, the names, if known, of
26 the candidates referred to or to be referred to therein, whether the expenditure is intended to
27 support or oppose the identified candidates and the amount of the total expenditure reported
28 pursuant to paragraph (C) of this subdivision spent to support or oppose each of the identified
29 candidates;

30 (E) The name and address of any person who contributed a total of more than ~~\$250~~ \$1,000
31 between the first day of the preceding calendar year, and the disclosure date, and whose
32 contributions were made for the explicit purpose of furthering ~~the~~ any independent expenditure.

33 (F) With regard to the contributors required to be listed pursuant to paragraph (E) of this
34 subdivision, the statement shall also include:

35 (i) The month, day and year that the contributions of any single contributor exceeded ~~\$250~~
36 \$1,000;

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

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

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

43 (v) The value in dollars and cents of the contribution.

44 (G)(1) A certification that such independent expenditure was not made in cooperation,
45 consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized
46 committee or agent of such candidate.

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

51 (3) The Secretary of State shall expeditiously prepare indices setting forth, on a candidate-
52 by-candidate basis, all independent expenditures separately, made by, or on behalf of, or for, or
53 against each candidate, as reported under this subsection, and for periodically publishing such
54 indices on a timely preelection basis.

55 (c)(1) A person, including a political committee, who makes or contracts to make
56 independent expenditures aggregating ~~\$1,000~~ \$5,000 or more for any statewide, legislative or
57 multi-county judicial candidate or ~~\$500~~ \$1,000 or more for any county office, single-county judicial
58 candidate, committee supporting or opposing a candidate on the ballot in more than one county,
59 or any municipal candidate on a municipal election ballot, after the fifteenth day, but more than
60 twelve hours, before the date of an election, shall file a report on a form prescribed by the
61 Secretary of State, describing the expenditures within twenty-four hours: *Provided*, That a person
62 making expenditures in the amount of ~~\$1,000~~ \$5,000 or more for any statewide candidate or
63 \$1,000 for any legislative candidate on or after the fifteenth day but more than twelve hours before
64 the day of any election shall report such expenditures in accordance with section two-b of this
65 article and shall not file an additional report as provided herein.

66 (2) Any person who files a report under subdivision (1) of this subsection, shall file an
67 additional report within twenty-four hours after each time the person makes or contracts to make
68 independent expenditures aggregating an additional ~~\$500~~ \$1,000 with respect to the same
69 election, for any county office, single-county judicial candidate, committee supporting or opposing

70 a candidate on the ballot in more than one county, or any municipal candidate on a municipal
71 election ballot, as that to which the initial report relates.

72 (d)(1) A person, including a political committee, who makes or contracts to make
73 independent expenditures aggregating \$10,000 or more at any time up to and including the
74 fifteenth day before the date of an election shall file a report on a form prescribed by the Secretary
75 of State, describing the expenditures within forty-eight hours.

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

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

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

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

88 (f) Any person who has spent a total of \$5,000 or more for the direct costs of purchasing,
89 producing or disseminating electioneering communications during any calendar year shall
90 maintain all financial records and receipts related to such expenditure for a period of six months
91 following the filing of a disclosure pursuant to subsection (a) of this section and, upon request,
92 shall make such records and receipts available to the Secretary of State or county clerk for the
93 purpose of an audit as provided in section seven of this article.

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

97 (h)(1) Any person who is required to file a statement under this section may file the
98 statement by facsimile device or electronic mail, in accordance with such rules as the Secretary
99 of State may promulgate.

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

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

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

108 (j) The Secretary of State may promulgate emergency and legislative rules, in accordance
109 with the provisions of chapter twenty-nine-a of this code, to establish guidelines for the
110 administration of this 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 fifteenth day but more than twelve hours before
5 the day of any election for the direct costs of purchasing, producing or disseminating
6 electioneering communications during any calendar year shall, within twenty-four hours of each
7 disclosure date, file with the Secretary of State a statement which contains all of the information
8 listed in subsection (b) of this section.

9 (b)(1) The name of the person making the expenditure, ~~the name of any person sharing~~
10 ~~or exercising direction or control over the activities of the person making the expenditure~~ the
11 names and a mailing address for each officer and director and the highest compensated
12 employee of the entity if the person is an entity, and the name of the custodian of the books and
13 accounts of the person making the expenditure;

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

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

19 (4) The elections to which the electioneering communications pertain, the names, if
20 known, of the candidates referred to or to be referred to therein, whether the electioneering
21 communication is intended to support or oppose the identified candidates and the amount of the
22 total expenditure reported in subdivision (3) of this subsection spent to support or oppose each of
23 the identified candidates; and

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

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

30 (1) The month, day and year that the contributions of any single contributor exceeded
31 ~~\$250~~ \$1,000;

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

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

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

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

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

43 (2) Any individual who makes contributions totaling \$250 or more between the first day of
44 the preceding calendar year and the disclosure date for the purpose of funding the direct costs of
45 purchasing, producing or disseminating electioneering communications shall, at the time the
46 contribution is made, provide the name of his or her occupation and of his or her current employer,
47 if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient
48 of the contribution.

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

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

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

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

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

63 (h) The Secretary of State is hereby directed to propose legislative rules and emergency
64 rules implementing this section for legislative approval in accordance with the provisions of article
65 three, chapter twenty-nine-a of this code.

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

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

**§3-8-2c. Party headquarters committee; detailed accounts and verified financial
statements; funding for headquarters; limitations; reporting requirements.**

1 (a) Notwithstanding the definitions contained in section one-a of this article, for purposes
2 of this section:

3 (1) "Contribution" means a gift, subscription, loan, assessment, payment for services,
4 dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other
5 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other

6 tangible thing of value to a person, made for the purpose of funding the rental, purchase,
7 construction or financing of the lease, purchase or construction of a party headquarters, and for
8 the utilities, maintenance, furniture, fixtures and equipment for the party headquarters. An offer or
9 tender of a contribution is not a contribution if expressly and unconditionally rejected or returned.
10 A contribution does not include volunteer personal services provided without compensation:
11 *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting
12 requirements and contribution limitations.

13 (2) "Party headquarters" means a physical structure or structures that is the physical
14 location of the office of a state executive committee of a political party.

15 (3) "Party headquarters committee" includes any person, organization or group of persons
16 soliciting or receiving contributions for the purpose of funding the lease, purchase, construction
17 or financing of the lease, purchase or construction of a party headquarters, including utilities,
18 maintenance, furniture, fixtures and equipment for the party headquarters.

19 (b) A political party may establish a party headquarters committee to solicit and receive
20 contributions for the exclusive purpose of the purchase, construction or lease of an office building
21 or financing of the lease, purchase or construction of a party headquarters, including utilities,
22 maintenance, furniture, fixtures and equipment, to be used as a state political party's
23 headquarters.

24 (c) Contributions received pursuant to this section may not be expended for:

25 (1) The purchase, construction or lease of satellite offices or other facilities;

26 (2) Utilities, maintenance, furniture, fixtures, equipment or signage for satellite offices or
27 other facilities; or

28 (3) Political purposes.

29 (d) A party headquarters committee may not accept contributions in excess \$10,000, in
30 the aggregate, from any person for the purposes of this section.

31 (e) A party headquarters committee may not receive contributions or make expenditures
32 for the purpose of funding the rental, purchase, construction or financing of a state executive
33 committee headquarters in excess of \$1 million.

34 (f)(1) A party headquarters committee, financial agent or any person or officer acting on
35 behalf of the committee that is subject to the provisions of this section, shall file a verified financial
36 statement with the Secretary of State, on a form prescribed by the secretary, within ninety days
37 of any contribution or expenditure in excess of ~~\$250~~ \$1,000.

38 (2) Each financial statement shall contain, but is not limited to, the following information:

39 (A) The name, residence and mailing address and telephone number of the party
40 headquarters committee, financial agent or any person or officer acting on behalf of the
41 committee, filing the financial statement.

42 (B) The balance of cash and any other sum of money on hand at the beginning and the
43 end of the period covered by the financial statement.

44 (C) The name of any person making a contribution, the amount of the contribution, and
45 the residence and mailing address of the contributor.

46 (D) The total amount of contributions received during the period covered by the financial
47 statement.

48 (E) The name, residence and mailing address of any individual or the name and mailing
49 address of each lending institution making a loan, the amount of any loan received, the date and
50 terms of the loan, including the interest and repayment schedule, and a copy of the loan
51 agreement.

52 (F) The name, residence and mailing address of any individual or the name and mailing
53 address of each partnership, firm, association, committee, organization or group having
54 previously made or cosigned a loan for which payment is made or a balance is outstanding at the
55 end of the period, together with the amount of repayment on the loan made during the period and
56 the balance at the end of the period.

57 (G) The total outstanding balance of all loans at the end of the period.

58 (H) The name, residence and mailing address of any person to whom each expenditure
59 was made or liability incurred, together with the amount and purpose of each expenditure or
60 liability incurred and the date of each transaction.

61 (I) The total amount of expenditures made during the period covered by the financial
62 statement.

63 (3) The Secretary of State shall file and retain the statements as public records for not less
64 than six years.

65 (g) Contributions received by a party headquarters committee may be contributed to any
66 educational, cultural or charitable organization.

67 (h) The Secretary of State shall propose rules for legislative approval in accordance with
68 the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of
69 this section.

§3-8-5. Detailed accounts and verified financial statements required.

1 (a) Every candidate ~~treasurer, person and association of persons, organization of any~~
2 ~~kind, including every corporation, directly, or by an independent expenditure, supporting a political~~
3 ~~committee established pursuant to paragraph (C), subdivision (1), subsection (b), section eight of~~
4 ~~this article or engaging in other activities permitted by this section and also including the treasurer~~
5 ~~or equivalent officer of the association or organization, expressly advocating the election or defeat~~
6 ~~of a clearly identified candidate for state, district, county or municipal office, and the treasurer of~~
7 every political committee shall keep detailed accounts of every sum of money or other thing of
8 value received by him or her, including all loans of money or things of value and of all expenditures
9 and disbursements made, liabilities incurred by the candidate ~~financial agent, person, association~~
10 ~~or organization or committee, for political purposes, or by any of the officers or members of the~~
11 ~~committee, or any person acting under its authority or on its behalf~~ or political committee. Any
12 entity that is not a political committee and makes reportable independent expenditures or

13 electioneering communications shall keep detailed accounts of every sum of money or other thing
14 of value received by him or her received for the explicit purpose of furthering any independent
15 expenditure or electioneering communication and of all disbursements made for independent
16 expenditures or electioneering communications.

17 (b) Every ~~person or association of persons~~ candidate or political committee required to
18 keep detailed accounts under this section shall file with the officers hereinafter prescribed a
19 detailed itemized sworn statement:

20 (1) Of all financial transactions, whenever the total exceeds ~~\$500~~ \$1,000 which have taken
21 place before the last Saturday in March, to be filed within six days thereafter and annually
22 whenever the total of all financial transactions relating to an election exceeds ~~\$500~~ \$1,000;

23 (2) Of all financial transactions which have taken place before the fifteenth day preceding
24 each primary or other election and subsequent to the previous statement, if any, to be filed within
25 four business days after the fifteenth day;

26 (3) Of all financial transactions which have taken place before the thirteenth day after each
27 primary or other election and subsequent to the previous statement, if any, to be filed within twenty
28 business days after the thirteenth day; and

29 (4) Of all financial transactions, whenever the total exceeds ~~\$500~~ \$1,000 or whenever any
30 loans are outstanding, which have taken place before the forty-third day preceding the general or
31 other election, ~~day~~ to be filed within four business days after the forty-third day.

32 (c) Every person who announces as a write-in candidate for any elective office and his or
33 her financial agent or election organization of any kind shall comply with all of the requirements
34 of this section after public announcement of the person's candidacy has been made.

35 (d) For purposes of this section, the term "financial transactions" includes all contributions
36 or loans received and all repayments of loans or expenditures made ~~to promote the candidacy of~~
37 ~~any person by any candidate or any organization advocating or opposing the nomination, election~~
38 ~~or defeat of any candidate to be voted on~~ by any candidate or political committee.

39 (e) Candidates for the office of conservation district supervisor elected pursuant to the
40 provisions of article twenty-one-a, chapter nineteen of this code are required to file only the reports
41 required by subdivisions (2) and (3), subsection (b) of this section immediately prior to and after
42 the primary election. ~~Provided, That during the election in the year 2008, the statements required~~
43 ~~by this subsection shall be filed immediately prior to and after the general election.~~

§3-8-5a. Information required in financial statement.

1 (a) Each financial statement required by the provisions of this article, other than a
2 disclosure of independent expenditures pursuant to section two-a of this article or electioneering
3 communications pursuant to section two-b of this article, shall contain only the following
4 information:

5 (1) The name, residence and mailing address and telephone number of each candidate,
6 financial agent, treasurer or person and the name, address and telephone number of each
7 association, organization or committee filing a financial statement.

8 (2) The balance of cash and any other sum of money on hand at the beginning and the
9 end of the period covered by the financial statement.

10 (3) The name of any person making a contribution and the amount of the contribution. If
11 the total contributions of any one person in any one election cycle amount to more than \$250, the
12 residence and mailing address of the contributor and, if the contributor is an individual, ~~his or her~~
13 ~~major business affiliation and occupation,~~ the name and address of the individual's current
14 employer, if any, or, if the individual is self-employed, the name and address of the individual's
15 business, if any, shall also be reported. A contribution ~~totaling more than \$50~~ of currency of the
16 United States or currency of any foreign country by any one contributor is prohibited and a
17 violation of section five-d of this article. The statement on which contributions are required to be
18 reported by this subdivision may not distinguish between contributions made by individuals and
19 contributions made by partnerships, firms, associations, committees, organizations or groups.

20 (4) The total amount of contributions received during the period covered by the financial
21 statement.

22 (5) The name, residence and mailing address of any individual or the name and mailing
23 address of each lending institution making a loan or of the spouse cosigning a loan, as
24 appropriate, the amount of any loan received, the date and terms of the loan, including the interest
25 and repayment schedule, and a copy of the loan agreement.

26 (6) The name, residence and mailing address of any individual or the name and mailing
27 address of each partnership, firm, association, committee, organization or group having
28 previously made or cosigned a loan for which payment is made or a balance is outstanding at the
29 end of the period, together with the amount of repayment on the loan made during the period and
30 the balance at the end of the period.

31 (7) The total outstanding balance of all loans at the end of the period.

32 (8) The name, residence and mailing address of any person to whom each expenditure
33 was made or liability incurred, including expenditures made on behalf of a candidate or political
34 committee that otherwise are not made directly by the candidate or political committee, together
35 with the amount and purpose of each expenditure or liability incurred and the date of each
36 transaction.

37 (9) The total expenditure for the nomination, election or defeat of a candidate or any
38 person supporting, aiding or opposing the nomination, election or defeat of any candidate in
39 whose behalf an expenditure was made or a contribution was given for the primary or other
40 election.

41 (10) The total amount of expenditures made during the period covered by the financial
42 statement.

43 (b) Any unexpended balance at the time of making the financial statements herein
44 provided for shall be properly accounted for in that financial statement and shall appear as a
45 beginning balance in the next financial statement.

46 (c) Each financial statement required by this section shall contain a separate section
47 setting forth the following information for each fund-raising event held during the period covered
48 by the financial statement:

49 (1) The type of event, date held and address and name, if any, of the place where the
50 event was held.

51 (2) All of the information required by subdivision (3), subsection (a) of this section.

52 (3) The total of all moneys received at the fund-raising event.

53 (4) The expenditures incident to the fund-raising event.

54 (5) The net receipts of the fund-raising event.

55 (d) When any lump sum payment is made to any advertising agency or other disbursing
56 person who does not file a report of detailed accounts and verified financial statements as required
57 in this section, such lump sum expenditures shall be accounted for in the same manner as
58 provided for herein.

59 (e) Any contribution or expenditure made by or on behalf of a candidate for public office
60 to any other candidate or committee for a candidate for any public office in the same election shall
61 be accounted for in accordance with the provisions of this section.

62 (f) No person may make any contribution except from his, her or its own funds, unless
63 such person discloses in writing to the person required to report under this section the name,
64 residence, mailing address, major business affiliation and occupation of the person which
65 furnished the funds to the contributor. All such disclosures shall be included in the statement
66 required by this section.

67 (g) Any firm, association, committee or fund permitted by section eight of this article to be
68 a political committee shall disclose on the financial statement its corporate or other affiliation.

69 (h) No contribution may be made, directly or indirectly, in a fictitious name, anonymously
70 or by one person through an agent, relative or other person so as to conceal the identity of the

71 source of the contribution or in any other manner so as to effect concealment of the contributor's
72 identity.

73 (i) No person may accept any contribution for the purpose of influencing the nomination,
74 election or defeat of a candidate or for the passage or defeat of any ballot issue unless the identity
75 of the donor and the amount of the contribution is known and reported.

76 (j) When any person receives an anonymous contribution which cannot be returned
77 because the donor cannot be identified, that contribution shall be donated to the General Revenue
78 Fund of the state. Any anonymous contribution shall be recorded as such on the candidate's
79 financial statement, but may not be expended for election expenses. At the time of filing, the
80 financial statement shall include a statement of distribution of anonymous contributions, which
81 total amount shall equal the total of all anonymous contributions received during the period.

82 ~~(k) Any membership organization which raises funds for political purposes by payroll~~
83 ~~deduction, assessing them as part of its membership dues or as a separate assessment, may~~
84 ~~report the amount raised as follows:~~

85 ~~(1) If the portion of dues or assessments designated for political purposes equals \$25 or~~
86 ~~less per member over the course of a calendar year, the total amount raised for political purposes~~
87 ~~through membership dues or assessments during the period is reported by showing the amount~~
88 ~~required to be paid by each member and the number of members.~~

89 ~~(2) If the total payroll deduction for political purposes of each participating member equals~~
90 ~~\$25 or less over the course of a calendar or fiscal year, as specified by the organization, the~~
91 ~~organization shall report the total amount received for political purposes through payroll~~
92 ~~deductions during the reporting period and, to the maximum extent possible, the amount of each~~
93 ~~yearly payroll deduction contribution level and the number of members contributing at each such~~
94 ~~specified level. The membership organization shall maintain records of the name and yearly~~
95 ~~payroll deduction amounts of each participating member.~~

96 ~~(3) If any member contributes to the membership organization through individual voluntary~~
97 ~~contributions by means other than payroll deduction, membership dues, or assessments as~~
98 ~~provided in this subsection, the reporting requirements of subdivision (3), subsection (a) of this~~
99 ~~section shall apply. Funds raised for political purposes must be segregated from the funds for~~
100 ~~other purposes and listed in its report~~

101 ~~(j)~~ (k) Notwithstanding the provisions of section five of this article or of the provisions of
102 this section to the contrary, an alternative reporting procedure may be followed by a political party
103 committee in filing financial reports for fund-raising events if the total profit does not exceed \$5,000
104 per year. A political party committee may report gross receipts for the sale of food, beverages,
105 services, novelty items, raffle tickets or memorabilia, except that any receipt of more than \$50
106 from an individual or organization shall be reported as a contribution. A political party committee
107 using this alternative method of reporting shall report:

- 108 (i) The name of the committee;
- 109 (ii) The type of fund-raising activity undertaken;
- 110 (iii) The location where the activity occurred;
- 111 (iv) The date of the fundraiser;
- 112 (v) The name of any individual who contributed more than \$50 worth of items to be sold;
- 113 (vi) The name and amount received from any person or organization purchasing more
114 than \$50 worth of food, beverages, services, novelty items, raffle tickets or memorabilia;
- 115 (vii) The gross receipts of the fundraiser; and
- 116 (viii) The date, amount, purpose and name and address of each person or organization
117 from whom items with a fair market value of more than \$50 were purchased for resale.

§3-8-5b. Where financial statements shall be filed; filing date prescribed.

1 (a) The financial statements provided ~~for~~ in this article shall be filed, by or on behalf of
2 candidates, with:

3 (1) The Secretary of State for legislative offices, circuit judge and family court judge, and
4 for statewide and other offices to be nominated or elected by the voters of a political division
5 greater than a county;

6 (2) The clerk of the county commission by candidates for offices to be nominated or
7 elected by the voters of a single county or a political division within a single county except circuit
8 judge and family court judge; or

9 (3) The proper municipal officer by candidates for office to be nominated or elected to
10 municipal office.

11 (b) The statements may be filed by mail, in person, or by facsimile or other electronic
12 means of transmission: *Provided*, That the financial statements filed by or on behalf of candidates
13 for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of
14 Agriculture, and Supreme Court of Appeals, political action committees, ballot issue committees,
15 persons or entities engaging in electioneering communications and persons or entities making
16 independent expenditures shall be filed electronically by the means of an Internet program that
17 has been established by the Secretary of State on forms or in a format prescribed by the Secretary
18 of State: *Provided, however*, That after January 1, 2018, unless a committee has been granted
19 an exemption in case of hardship pursuant to subsection (c) of this section, all such statements
20 required to be filed with the Secretary of State, on or behalf of a candidate for any elective office,
21 shall be filed electronically by means of the Internet program that has been established by the
22 Secretary of State. If through or by no fault of the candidate the candidate is unable to file the
23 campaign financial statement, the candidate shall then file said statement in person, via facsimile
24 or other electronic means of transmission, or by certified mail postmarked at the first reasonable
25 opportunity.

26 (c) Committees required to report electronically may apply to the State Election
27 Commission for an exemption from mandatory electronic filing in the case of hardship. An
28 exemption may be granted at the discretion of the State Election Commission.

29 (d) For purposes of this article, the filing date of a financial statement shall, in the case of
30 mailing, be the date of the postmark of the United States Postal Service, and in the case of hand
31 delivery or delivery by facsimile or other electronic means of transmission, the date delivered to
32 the office of the Secretary of State or to the office of the clerk of the county commission, in
33 accordance with the provisions of subsection (a) of this section, during regular business hours of
34 that office.

35 (e) The sworn financial statements required to be filed by this section with the Secretary
36 of State shall be posted on the Internet by the Secretary of State within ten business days from
37 the date the financial statement is was filed.

§3-8-5d. Offenses and penalties.

1 (a) Any person who makes or receives a contribution of currency of the United States or
2 currency of any foreign country ~~of more than \$50 in value~~ is guilty of a misdemeanor and, upon
3 conviction, shall be fined a sum equal to three times the amount of the contribution: Provided,
4 That it shall not be a violation of this subsection to receive currency in exchange for goods or
5 services provided by the recipient.

6 (b) Notwithstanding any provision of section twenty-four, article nine of this chapter to the
7 contrary, a criminal prosecution or civil action for a violation of this article may be commenced
8 within five years after the violation occurred.

9 (c) No person required to report under this article shall be found in violation of this article
10 if any person, firm, association or committee making a contribution has provided false information
11 to such person: *Provided*, That any person, firm, association or committee who provides false
12 information to a person required to report under this article is guilty of a misdemeanor and subject
13 to the penalties provided in section twenty-three, article nine of this chapter.

§3-8-5f. Loans to candidates, organizations or persons for election purposes.

1 (a) No candidate, financial agent, person or association of persons or organization
2 advocating or opposing the nomination or election of any candidate or the passage or defeat of

3 any issue or item to be voted upon may receive any money or any other thing of value as a loan
4 toward election expenses except from the candidate, his or her spouse or a lending institution. All
5 loans shall be evidenced by a written agreement executed by the lender, whether the candidate,
6 his or her spouse, or the lending institution. Such agreement shall state the date and amount of
7 the loan, the terms, including interest and repayment schedule, and a description of the collateral,
8 if any, and the full names and addresses of all parties to the agreement. A copy of the agreement
9 shall be filed with the financial statement next required after the loan is executed.

10 (b) Loans may only be made in the regular course of business by a lending institution
11 which is a state bank, a federally chartered depository institution (including a national bank) or a
12 depository institution whose deposits are insured by the federal deposit insurance corporation or
13 the national credit union administration. Such loans shall be subject to the following requirements:

14 (1) Endorsements or guarantees of such loans may be made by the candidate or his or
15 her spouse;

16 (2) Endorsements or guarantees of such loans by parties other than the candidate or his
17 or her spouse may be made only to the extent of the contribution limits, ~~established in this article;~~
18 and

19 (3) No other form of security shall be furnished in connection with such loans by any party
20 other than the candidate or his or her spouse.

21 (c) The provisions of this section shall not be construed to prohibit a candidate or his or
22 her spouse from lending money to the candidate or to the candidate's political committee:
23 *Provided*, That the spouse of a candidate may not borrow money from a third party other than a
24 lending institution authorized to make loans under this section for the purposes of lending money
25 to the candidate or the candidate's political committee.

§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.

1 (a) Any ~~person~~ candidate ~~financial agent~~ or treasurer of a political ~~party~~ committee who
2 fails to file a sworn, itemized statement required by this article within the time limitations specified
3 in this article or who willfully files a grossly incomplete or grossly inaccurate statement is guilty of
4 a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 or confined in jail
5 for not more than one year, or both, ~~fined and confined~~ in the discretion of the court. Sixty days
6 after any primary or other election, the Secretary of State, county clerk or municipal recorder, as
7 the case may be, shall give notice of any failure to file a sworn statement or the filing of any
8 grossly incomplete or grossly inaccurate statement by any person, candidate, financial agent or
9 treasurer of a political party committee and forward copies of any grossly incomplete or grossly
10 inaccurate statement to the prosecuting attorney of the county where the person, candidate,
11 financial agent or treasurer resides, is located or has its principal place of business.

12 (b) (1) Any ~~person~~ candidate ~~financial agent~~ or treasurer of a political ~~party~~ committee who
13 fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete
14 or grossly inaccurate statement may be assessed a civil penalty by the Secretary of State of \$25
15 a day for each day after the due date the statement is delinquent, grossly incomplete or grossly
16 inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the
17 Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete
18 or grossly inaccurate statement by any person, candidate, financial agent or treasurer of a political
19 party committee and forward copies of such delinquent, incomplete or inaccurate statements to
20 the Secretary of State.

21 (2) A civil penalty assessed pursuant to this section shall be payable to the State of West
22 Virginia and is collectable as authorized by law for the collection of debts.

23 (3) The Secretary of State may negotiate and enter into settlement agreements for the
24 payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete or
25 inaccurate statement.

26 (4) The Secretary of State and county clerk may review and audit any sworn statement
27 required to be filed pursuant to this article. The State Election Commission shall propose
28 legislative rules for promulgation, in accordance with chapter twenty-nine-a of this code, to
29 establish procedures for the assessment of civil penalties as provided in this section.

30 (c) (1) ~~No~~ Any candidate, whether nominated by a primary election or appointed by
31 executive committee or executive committee chair, who has failed to file ~~any~~ a sworn statement
32 as required by this article, relating to the immediately preceding primary election for any office by
33 the eighty-fourth day before the general election, is disqualified and may not have his or her name
34 ~~appear~~ placed on the general election ballot. The provisions of subsection (d), section five-b of
35 this article notwithstanding, any sworn statement filed after the deadline required by section five
36 of this article must be received in the office indicated by subsection (a), section five-b of this article
37 by the close of business on the eighty-fourth day before the general election.

38 (2) It is unlawful to issue a commission or certificate of election, or to administer the oath
39 of office, to any person elected to any public office who has failed to file ~~any~~ a sworn statement
40 as required by this article and no person may enter upon the duties of his or her office until he or
41 she has filed such statement, nor may he or she receive any salary or emolument for any period
42 prior to the filing of the statement.

43 (3) The vacancy on the ballot created by the disqualification in this subsection is subject
44 to section nineteen, article five of this chapter.

45 (d) As used in this section, "grossly" means substantive and material, and specifically
46 includes false or misleading representations and acts of omissions.

47 (e) The Secretary of State shall provide by rule protocols for written notice via certified
48 mail, return receipt requested, to the person, candidate, financial agent or treasurer of a political

49 party committee that is not in compliance with the requirements of this section. With respect to a
50 violation of subsection (c) of this section, the notice shall be provided sixty days after any primary
51 or other election.

§3-8-8. Corporation and membership organization contributions forbidden; exceptions; penalties; promulgation of rules; additional powers of State Election Commission.

1 (a) ~~An officer, agent or person acting on behalf of any corporation, whether incorporated~~
2 ~~under the laws of this or any other state or of a foreign country, may not pay, give, lend or authorize~~
3 ~~to be paid, any~~ No money or other thing of value belonging to the a corporation or membership
4 organization may be made as a contribution to any political committee.

5 ~~(b) A person may not solicit or receive any payment, contribution or other thing from any~~
6 ~~corporation or from any officer, agent or other person acting on behalf of the corporation to any~~
7 ~~candidate or candidate's campaign for nomination or election to any statewide office or any other~~
8 ~~elective office in the state or any of its subdivisions.~~ corporation or membership organization to
9 any candidate or candidate's campaign for nomination or election to any statewide office or any
10 other elective office in the state or any of its subdivisions.

11 (c)(1) The provisions of this section do not prohibit a corporation or membership
12 organization from soliciting, through any officer, agent or person acting on behalf of the
13 corporation or membership organization, contributions to a separate segregated fund to be used
14 for political purposes. Any separate segregated fund is considered a political action committee for
15 the purpose of this article and is subject to all reporting requirements applicable to political action
16 committees;_

17 (2) It is unlawful for:

18 (A) A corporation, membership organization or separate segregated fund to make a
19 primary or other election contribution or expenditure by using money or anything of value secured:

20 (i) By physical force, job discrimination or financial reprisal; (ii) by the threat of force, job
21 discrimination or financial reprisal; or (iii) as a condition of employment;

22 (B) Any person soliciting a membership organization member, stockholder or executive or
23 administrative personnel and members of their families for a contribution to a corporation,
24 membership organization or separate segregated fund to fail to inform the person solicited of the
25 political purposes of the separate segregated fund at the time of the solicitation;

26 (C) Any person soliciting any other person for a contribution to a corporation, membership
27 organization or separate segregated fund to fail to inform the person solicited at the time of the
28 solicitation of his or her right to refuse to contribute without any reprisal;

29 (D) A separate segregated fund established by a membership organization or corporation:
30 (i) To solicit contributions to the fund from any person other than the membership organization's
31 members or the corporation's stockholders and their families and its executive or administrative
32 personnel and their families; or (ii) to contribute any corporate or membership organization funds;

33 (E) A separate segregated fund established by a corporation or membership organization
34 to receive contributions to the fund from any person other than the corporation's stockholders or
35 membership organization members and their immediate families and ~~its~~ their executive or
36 administrative personnel and their immediate families;

37 (F) A corporation or membership organization to engage in job discrimination or to
38 discriminate in job promotion or transfer because of an employee's or member's failure to make
39 a contribution to the corporation, membership organization or a separate segregated fund;

40 (G) ~~A separate segregated fund~~ corporation or membership organization to make ~~any a~~
41 contribution ~~directly or indirectly, in excess of \$1,000 in connection with or on behalf of any~~
42 ~~campaign for nomination or election to any elective office in the state or any of its subdivisions,~~
43 ~~or in connection with or on behalf of any committee or other organization or person engaged in~~
44 ~~furthering, advancing, supporting or aiding the nomination or election of any candidate for any~~
45 ~~such office;~~

46 (H) ~~A corporation to pay, give or lend or to authorize payment, giving or lending of any~~
47 ~~moneys or other things of value belonging to the corporation to a separate segregated fund for~~

48 the purpose of making a contribution to a candidate or a candidate's committee. This provision
49 does not prohibit a separate segregated fund from using the property, real or personal, facilities
50 and equipment of a corporation or membership organization solely to establish, administer and
51 solicit contributions to the fund, subject to the rules of the State Election Commission as provided
52 in subsection (d) of this section: *Provided*, That any such corporation or membership organization
53 shall also permit any group of its employees represented by a bona fide political action committee
54 to use the real property of the corporation or membership organization solely to establish,
55 administer and solicit contributions to the fund of the political action committee, subject to the
56 rules of the State Election Commission promulgated in accordance with said subsection.

57 (3) For the purposes of this section, the term "executive or administrative personnel"
58 means individuals employed by a corporation or membership organization who are paid on a
59 salary rather than hourly basis and who have policy-making, managerial, professional or
60 supervisory responsibilities.

61 (d) Any person, ~~or~~ corporation or membership organization violating any provision of this
62 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
63 \$10,000. A corporation or membership organization may not reimburse any person the amount
64 of any fine imposed pursuant to this section.

65 (e) To ensure uniform administration and application of the provisions of this section and
66 of those of the Federal Election Campaign Act amendments of 1976 relating to corporate and
67 membership organization contributions, the State Election Commission shall propose rules for
68 legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of
69 this code to implement the provisions of this section consistent, insofar as practicable, with the
70 rules and regulations promulgated by the Federal Election Commission to carry out similar or
71 identical provisions of ~~2 U.S.C. §441b~~ 52 U. S. C. §30118.

72 (f) In addition to the powers and duties set forth in article one-a of this chapter, the State
73 Election Commission has the following powers and duties:

74 (1) To investigate, upon complaint or on its own initiative, any alleged violations or
75 irregularities of this article.

76 (2) To administer oaths and affirmations, issue subpoenas for the attendance of
77 witnesses, issue subpoenas duces tecum to compel the production of books, papers, records and
78 all other evidence necessary to any investigation.

79 (3) To involve the aid of any circuit court in the execution of its subpoena power.

80 (4) To report any alleged violations of this article to the appropriate prosecuting attorney
81 having jurisdiction, which prosecuting attorney shall, upon determining that there is a reason to
82 believe that a violation has occurred, present to the grand jury such alleged violations, together
83 with all evidence relating thereto, no later than the next term of court after receiving the report.

84 (g) The Attorney General shall, when requested, provide legal and investigative assistance
85 to the State Election Commission.

86 (h) Any investigation, either upon complaint or initiative, shall be conducted in an executive
87 session of the State Election Commission and shall remain undisclosed except to the persons or
88 entities being investigated or upon an indictment by a grand jury.

89 ~~(i) Any person who discloses the fact of any complaint, investigation or report or any part~~
90 ~~thereof, or any proceedings thereon, is guilty of a misdemeanor and, upon conviction thereof,~~
91 ~~shall be fined not less than \$1,000, nor more than \$5,000, and shall be confined in jail not less~~
92 ~~than six months nor more than one year.~~

93 ~~(j) The amendments to this section enacted during the second extraordinary session of~~
94 ~~2008 are intended to conform to the existing proscription to Constitutionally permissible limits and~~
95 ~~not to create a new offense or offenses.~~

96 ~~(k) The effective date of the amendments to this section enacted during the second~~
97 ~~extraordinary legislative session of 2008 is October 1, 2008.~~

§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.

1 (a) No financial agent or treasurer of a political committee shall pay, give or lend, either
2 directly or indirectly, any money or other thing of value for any election expenses, except for the
3 following purposes:

4 (1) For rent, maintenance, office equipment and other furnishing of offices to be used as
5 political headquarters and for the payment of necessary ~~clerks, stenographers, typists, janitors~~
6 ~~and messengers~~ employees actually employed therein;

7 (2) In the case of a candidate who does not maintain a headquarters, for reasonable office
8 expenses, including, but not limited to, filing cabinets and other office equipment and furnishings,
9 computers, computer hardware and software, scanners, typewriters, calculators, audio visual
10 equipment, the rental of the use of the same, or for the payment for the shared use of same with
11 the candidate's business and for the payment of necessary ~~clerks, stenographers and typists~~
12 employees actually employed;

13 (3) For printing and distributing books, pamphlets, circulars and other printed matter and
14 radio and television broadcasting and painting, printing and posting signs, banners and other
15 advertisements, including contributions to charitable, educational or cultural events, for the
16 promotion of the candidate, the candidate's name or an issue on the ballot;

17 (4) For renting and decorating halls for public meetings and political conventions, for
18 advertising public meetings and for the payment of traveling expenses of speakers and musicians
19 at such meetings;

20 (5) For the necessary traveling and hotel expenses of candidates, political agents and
21 committees and for stationery, postage, telegrams, telephone, express, freight and public
22 messenger service;

23 (6) For preparing, circulating and filing petitions for nomination of candidates;

24 (7) For examining the lists of registered voters, securing copies thereof, investigating the
25 right to vote of the persons listed therein and conducting proceedings to prevent unlawful
26 registration or voting;

27 (8) For conveying voters to and from the polls;

28 (9) For securing publication in newspapers and by radio and television broadcasting of
29 documents, articles, speeches, arguments and any information relating to any political issue,
30 candidate or question or proposition submitted to a vote;

31 (10) For conducting public opinion poll or polls. For the purpose of this section, the phrase
32 "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection,
33 collation and evaluation of information reflecting public opinion, needs and preferences as to any
34 candidate, group of candidates, party, issue or issues. No such poll shall be deceptively designed
35 or intentionally conducted in a manner calculated to advocate the election or defeat of any
36 candidate or group of candidates or calculated to influence any person or persons so polled to
37 vote for or against any candidate, group of candidates, proposition or other matter to be voted on
38 by the public at any election: *Provided*, That nothing herein shall prevent the use of the results of
39 any such poll or polls to further, promote or enhance the election of any candidate or group of
40 candidates or the approval or defeat of any proposition or other matter to be voted on by the public
41 at any election;

42 (11) For payment for food and drink for campaign-related purposes and for entertaining of
43 campaign volunteers;

44 (12) For payment for legal and accounting services rendered to a candidate or candidate
45 committee if the services are solely related to the candidacy or campaign;

46 (13) For the payment of any fees associated with the campaign, except that a candidate
47 may not pay any fines assessed against the candidate or the candidate's committee pursuant to
48 this article;

49 ~~(14)~~ (14) For legitimate advertising agency services, including commissions, in connection
50 with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7),
51 (9) and (10) of this subsection;

52 ~~(15)~~ (15) For the purchase of memorials, flowers or citations by political party executive
53 committees or political action committees representing a political party;

54 ~~(16)~~ (16) For the purchase of nominal noncash expressions of appreciation following the
55 close of the polls of an election or within thirty days thereafter;

56 ~~(17)~~ (17) For the payment of dues or subscriptions to any national, state or local committee
57 of any political party;

58 (18) For transfers to any national, state or local committee of any political party when that
59 committee is acting in the role of a vendor: *Provided*, That no such transfer shall involve any
60 coordination between the candidate and the political party committee;

61 (19) For any political expenditure;

62 ~~(20)~~ (20) For contributions to a county party executive committee, state party executive
63 committee or a state party legislative caucus political campaign committee; and

64 ~~(21)~~ (21) For contributions to a candidate committee: *Provided*, That a candidate
65 committee may not contribute to another candidate committee except as otherwise provided by
66 section ten of this article.

67 (b) A political action committee may not contribute to another political action committee or
68 receive contributions from another political action committee ~~*Provided*, That a political action~~
69 ~~committee may receive contributions from its national affiliate, if any~~ if the contribution is
70 earmarked for a contribution to any candidate committee or political party.

71 (c) Every liability incurred and payment made shall be for the fair market value of the
72 services rendered.

73 (d) Every advertising agency subject to the provisions of this article shall file, in the manner
74 and form required by section five-a of this article, the financial statements required by section five

75 of this article at the times required therein and include therein, in itemized detail, all receipts from
76 and expenditures made on behalf of a candidate, financial agent or treasurer of a political party
77 committee.

78 (e) Any candidate may designate a financial agent by a writing duly subscribed by ~~him~~ the
79 candidate which shall be in such form and filed in accordance with the provisions of section four
80 of this article.

§3-8-9a. Expenditures by political party committees, political party caucuses and state candidates.

1 (a) Notwithstanding any other provision of law with respect to limitations on expenditures
2 or limitations on contributions, the state committee of a political party and caucus campaign
3 committee may make expenditures in an amount not to exceed \$20,000 in coordination with the
4 general election campaign of candidates for Governor, Attorney General, Auditor, Commissioner
5 of Agriculture, Secretary of State, Treasurer, State Senate and House of Delegates.

6 (b) For purposes of this section, all communications that are made in coordination with a
7 candidate or candidate's committee must include a statement clearly identifying that the
8 communications were made in coordination with the candidate or candidate's committee.

§3-8-10. Use of certain contributions.

1 (a) Notwithstanding any provision of this code to the contrary, amounts received by a
2 candidate as contributions that are in excess of any amount necessary to defray his or her
3 expenditures may be:

4 (1) Used by the candidate to defray any usual and customary expenses incurred in
5 connection with his or her duties as a holder of public office; and

6 (2) Contributed by the candidate ~~after the general election~~, to:

7 (A) Any charitable organization or subsequent campaign by the same candidate, without
8 limitation;

9 (B) Any national committee in accordance with federal requirements;

10 (C) Any state party executive committee or ~~state party legislative~~ caucus campaign
11 committee, in an amount not to exceed \$15,000 in a calendar year; or

12 (D) Any local committee of any political party or any other candidate for public office, in
13 accordance with the existing limitations on contributions.

14 (b) The State Election Commission shall promulgate emergency and legislative rules, in
15 accordance with the provisions of chapter twenty-nine-a of this code, to establish guidelines for
16 the administration of this section.

§3-8-11. Specific acts forbidden; penalties.

1 (a) Any person who shall, directly or indirectly, by himself, or by any other person on his
2 or her behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict,
3 or threaten to inflict, any damage, harm or loss, upon or against any person, or by any other
4 means attempt to intimidate or exert any undue influence, in order to induce such person to vote
5 or refrain from voting, or on account of such person having voted or refrained from voting, at any
6 election, or who shall, by abduction, duress or any fraudulent device or contrivance, impede or
7 prevent the free exercise of the suffrage by any elector, or shall thereby compel, induce or prevail
8 upon any elector either to vote or refrain from voting for or against any particular candidate or
9 measure; or

10 (b) Any person who, being an employer, or acting for or on behalf of any employer, shall
11 give any notice or information to his or her employees, containing any threat, either express or
12 implied, intended or calculated to influence the ~~political view or actions of the workmen or~~
13 ~~employees;~~ decisions of the workmen or employees to vote or refrain from voting in any election,
14 vote for or against any candidate or any candidate of any political party, contribute to any
15 candidate, party, or political committee, or make any contribution for any independent expenditure
16 or electioneering communication: *Provided*, That information provided that expresses the opinion
17 of the employer on any candidate, party, political committee or ballot issue or the effects of the

18 ballot issue or the policies advocated by any candidate on the employer or on the state is not a
19 forbidden act; or

20 (c) Any person who shall, knowingly, make or publish, or cause to be made or published,
21 any false statement in regard to any candidate, which statement is intended or tends to affect any
22 voting at any election whatever; or

23 (d) Any person who shall pay any owner, publisher, editor or employee or any newspaper
24 or other periodical, to advocate or oppose editorially, any candidate for nomination or election, or
25 any political party, or any measure to be submitted to the vote of the people without reporting this
26 as an independent expenditure or electioneering communication, where appropriate; or any
27 owner, publisher, editor or employee, who shall solicit or accept such payment without reporting
28 this as an independent expenditure or electioneering communication, where appropriate, is guilty
29 of a misdemeanor and, on conviction thereof, shall be fined not more than \$10,000, or confined
30 in jail for not more than one year or, in the discretion of the court, shall be subject to both such
31 fine and imprisonment.

**§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising;
solicitation of contributions; intimidation and coercion of employees; withholding
of wages or salaries without express authorization; promise of employment or other
benefits; limitations on contributions; public contractors; penalty.**

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

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

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

21 ~~(d)~~ (c) Except as provided in section eight of this article, a person entering into any contract
22 with the state or its subdivisions, or any department or agency of the state, either for rendition of
23 personal services or furnishing any material, supplies or equipment or selling any land or building
24 to the state, or its subdivisions, or any department or agency of the state, if payment for the
25 performance of the contract or payment for the material, supplies, equipment, land or building is
26 to be made, in whole or in part, from public funds may not, during the period of negotiation for or
27 performance under the contract or furnishing of materials, supplies, equipment, land or buildings,
28 directly or indirectly, make any contribution or solicit any contribution to any political party, political
29 committee that makes contributions to any candidate or political party or candidate for public office
30 or to any person for political purposes or use ~~nor may any person or firm solicit any contributions~~
31 ~~for any purpose~~ other than independent expenditures during any that period.

32 ~~(e)~~ (d) A person may not, directly or indirectly, promise any employment, position, work,
33 compensation or other benefit provided for, or made possible, in whole or in part, by act of the

34 Legislature, to any person as consideration, favor or reward for any political activity for the support
35 of or opposition to any candidate, or any political party in any election.

36 ~~(f) Except as provided in section eight of this article, a person may not directly or indirectly,~~
37 ~~make any contribution in excess of the value of \$1,000 in connection with any campaign for~~
38 ~~nomination or election to or on behalf of any statewide office, in connection with any other~~
39 ~~campaign for nomination or election to or on behalf of any other elective office in the state or any~~
40 ~~of its subdivisions, or in connection with or on behalf of any person engaged in furthering,~~
41 ~~advancing, supporting or aiding the nomination or election of any candidate for any of the offices.~~

42 ~~(g) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code~~
43 ~~of 1986) may not solicit or accept contributions until it has notified the Secretary of State of its~~
44 ~~existence and of the purposes for which it was formed. During the two-year election cycle, a~~
45 ~~political organization (as defined in Section 527 (e) (1) of the Internal Revenue Code of 1986)~~
46 ~~may not accept contributions totaling more than \$1,000 from any one person prior to the primary~~
47 ~~election and contributions totaling more than \$1,000 from any one person after the primary and~~
48 ~~before the general election.~~

49 ~~(h) It is unlawful for any person to create, establish or organize more than one political~~
50 ~~organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) with the intent~~
51 ~~to avoid or evade the contribution limitations contained in subsection (g) of this section.~~

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

56 (e) Except as provided in section eight of this article, a person may not make contributions
57 to any candidate or, his or her authorized campaign committees with respect to any campaign for
58 nomination or election that in the aggregate exceed the value of \$2,700.

59 (f) A person may not make contributions to state, district or county party committees which,
60 in the combined aggregate for all the committees, exceed the value of \$10,000 in any calendar
61 year.

62 (g) A person may not make contributions to any caucus campaign committee which, in the
63 aggregate, exceed the value of \$10,000 in any calendar year.

64 (h) A person may not make contributions to any political action committee which, in the
65 aggregate, exceed the value of \$5,000 in any calendar year: *Provided*, That a person may make
66 a contribution in any amount to any political action committee that only makes independent
67 expenditures. The independent expenditure-only committee may not make contributions to any
68 candidate or his or her authorized campaign committee, any political party committee, any caucus
69 campaign committee or any political action committee other than another independent
70 expenditure-only political action committee.

71 (i) The contribution limitations in subsection (e) of this section shall be increased as
72 follows: On the last day of every calendar year following the start of a new two-year election cycle,
73 the Secretary of State shall adjust the dollar values for the fixed dollar amounts for limitations on
74 contributions under this chapter by comparing the percentage increase or decrease in the
75 consumer price index by the corresponding consumer price index since the same date after the
76 last such regular election year, as determined by the most comprehensive index of consumer
77 prices available for West Virginia from the Bureau of Labor Statistics of the United States
78 Department of Labor. The Secretary of State shall multiply these thresholds by that percentage
79 change in the consumer price index and shall round up each dollar value adjustment made to the
80 nearest \$100. The State Election Commission shall announce the adjustments made under this
81 subsection within thirty days after the relevant index of consumer prices is published. The new
82 contribution limitations will remain in effect for the two-year election cycle in which the calculation
83 is made.

84 (j) The limitations on contributions contained in this section do not apply to transfers
85 between and among a state party executive committee, ~~or a state party's legislative a caucus~~
86 ~~political campaign committee and from~~ national committees of the same political party: *Provided,*
87 ~~That transfers permitted by this subsection may not exceed \$50,000 in the aggregate in any~~
88 ~~calendar year to any state party executive committee or state party legislative caucus political~~
89 ~~committee: *Provided, however,* That~~ the moneys transferred may only be used for voter
90 registration and get-out-the-vote activities of the state committees.

91 (k) A person may not solicit any contribution, other than contributions to a campaign for or
92 against a county or local government ballot issue, from any nonelective salaried employee of the
93 state government or of any of its subdivisions: *Provided,* That in no event may any person acting
94 in a supervisory role solicit a person who is a subordinate employee for any contribution.

95 (l) A person may not coerce or intimidate any ~~nonelective salaried~~ employee into making
96 a contribution. A person may not coerce or intimidate any ~~nonsalaried employee of the state~~
97 ~~government or any of its subdivisions~~ into engaging in or refraining from any form of political
98 activity. The provisions of this subsection may not be construed to prevent any employee from
99 making a contribution or from engaging in political activity voluntarily without coercion, intimidation
100 or solicitation.

101 (l) ~~A person may not solicit a contribution from any other person without informing the~~
102 ~~other person at the time of the solicitation of the amount of any commission, remuneration or other~~
103 ~~compensation that the solicitor or any other person will receive or expect to receive as a direct~~
104 ~~result of the contribution being successfully collected. Nothing in this subsection may be~~
105 ~~construed to apply to solicitations of contributions made by any person serving as an unpaid~~
106 ~~volunteer.~~

107 (m) A person may not place any letter, circular, flyer, advertisement, election
108 paraphernalia, solicitation material or other printed or published item ~~tending to influence voting~~
109 at expressly advocating the election or defeat of any candidate or a vote for or against any ballot

110 issue in any election in a roadside receptacle unless it is: (1) Approved for placement into a
111 roadside receptacle by the business or entity owning the receptacle; and (2) contains a written
112 acknowledgment of the approval. This subdivision does not apply to any printed material
113 contained in a newspaper or periodical published or distributed by the owner of the receptacle.
114 The term “roadside receptacle” means any container placed by a newspaper or periodical
115 business or entity to facilitate home or personal delivery of a designated newspaper or periodical
116 to its customers.

117 (n) An employer or any other person or entity responsible for the disbursement of funds in
118 payment of wages or salaries may not withhold or divert any portion of an employee’s wages or
119 salaries for use as contributions to any candidate or political committee, or for any other political
120 activities which tend to influence the voting at any election, except upon the express, written
121 request of the employee. The request must be made on a form prescribed by the Secretary of
122 State informing the employee of the prohibition against discrimination set forth in subsection (l) of
123 this section. The request is valid for no more than twelve months from the date it is made by the
124 employee. For purposes of this section, “political activities” shall mean any activity to urge any
125 person to vote for or against any candidate or ballot issue or to support or oppose a political
126 committee, political party or any other organization engaged in electioneering communications or
127 independent expenditures as defined in section one-a of this article. This subsection applies to
128 any written or oral contract or agreement entered into, modified, renewed or extended on or after
129 July 1, 2017: *Provided*, That the provisions of this subsection shall not otherwise apply to or
130 abrogate a written or oral contract or agreement or any provisions thereof in effect on or before
131 June 30, 2017.

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

135 ~~(e) The provisions of subsection (k) of this section, permitting contributions to a campaign~~
136 ~~for or against a county or local government ballot issue shall become operable on and after~~
137 ~~January 1, 2005.~~

138 (p) The limitations on contributions established by subsection ~~(g)~~ (h) of this section do not
139 apply to contributions made for the purpose of supporting or opposing a ballot issue, including a
140 constitutional amendment.