

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4951

FISCAL
NOTE

BY DELEGATES ANGELUCCI, DISERIO, WALKER,

LAVENDER-BOWE AND ESTEP-BURTON

[Introduced February 11, 2020; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §3-8-5c and §3-8-8 of the Code of West Virginia, 1931, as amended,
 2 all relating to limiting individual contributions to a political candidate to \$1,000; and
 3 prohibiting all contributions to a corporation's political action committee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-5c. Contribution limitations.

1 (a)(1) A person, political party, or political action committee may not, in an election cycle:

2 (A) Contribute more than ~~\$2,800~~ \$1,000, directly or indirectly, to a candidate's committee
 3 for a candidate seeking nomination, including by making contributions to the candidate's
 4 committee; or

5 (B) Contribute more than ~~\$2,800~~ \$1,000, directly or indirectly, to a candidate's committee
 6 for a candidate seeking election, including by making contributions to the candidate's committee:
 7 *Provided*, That a candidate may receive contributions for the general election prior to nomination,
 8 however, such funds may not be expended until after the date of the nomination is declared.

9 (2) The contribution limits of this section apply only to elections to be held after the effective
 10 date of this section and do not apply to candidate committees that were created for elections held
 11 prior to the effective date of this section.

12 (b) A person may not, directly or indirectly, make contributions to a state party executive
 13 committee, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee
 14 which, in the aggregate, exceed \$10,000 in any calendar year: *Provided*, That a person may not
 15 earmark or otherwise designate any portion of a contribution made pursuant to this subsection to
 16 be used to support or oppose the election of a particular candidate: *Provided, however*, That any
 17 such designation or earmark that accompanies a contribution made pursuant to this subsection
 18 may not be binding on the entity that receives the contribution.

19 (c) A person may not, directly or indirectly, make contributions to a political action
 20 committee, related to a particular election, which, in the aggregate, exceed \$5,000.

§3-8-8. Corporation 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 membership organization or any
2 corporation, whether incorporated under the laws of this or any other state or of a foreign country,
3 may not pay, give, lend, or authorize to be paid, any money or other thing of value belonging to
4 the corporation to any candidate or candidate's campaign committee for nomination or election to
5 any statewide office or any other elective office in the state or any of its subdivisions.

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

11 (c)(1) The provisions of this section do not prohibit a membership organization or
12 ~~corporation~~ from soliciting, through any officer, agent, or person acting on behalf of the
13 membership organization, or ~~corporation~~ 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 membership organization, corporation, 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, executive, or
23 administrative personnel member or their family members for a contribution to a membership
24 organization, corporation, 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 membership organization,
27 corporation, 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 a
30 corporation (i) To solicit contributions to the fund from any person other than the membership
31 organization's members or the corporation's stockholders and their families, or its executive or
32 administrative personnel and their families; or (ii) to contribute any membership organization or
33 corporate funds;

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

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

41 (G) A separate segregated fund to make any contribution, directly or indirectly, in excess
42 of the amounts permitted in §3-8-5c of this code in connection with or on behalf of any campaign
43 for nomination or election to any elective office in the state or any of its subdivisions, or in
44 connection with or on behalf of any committee or other organization or person engaged in
45 furthering, advancing, supporting, or aiding the nomination or election of any candidate for any
46 such office; or

47 (H) A membership organization or corporation to pay, give, or lend or to authorize
48 payment, giving, or lending of any moneys or other things of value belonging to the membership
49 organization or corporation to a separate segregated fund for the purpose of making a contribution
50 to a candidate or a candidate's committee. This provision does not prohibit a separate segregated

51 fund from using the property, real or personal, facilities, and equipment of a membership
52 organization or corporation solely to establish, administer, and solicit contributions to the fund,
53 subject to the rules of the State Election Commission as provided in subsection (e) of this section:
54 *Provided*, That any such membership organization ~~or corporation~~ shall also permit any group of
55 its employees represented by a bona fide political action committee to use the real property of the
56 membership organization ~~or corporation~~ solely to establish, administer, and solicit contributions
57 to the fund of the political action committee, subject to the rules of the State Election Commission
58 promulgated in accordance with said subsection.

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

63 (d) Any person, membership organization, or corporation violating any provision of this
64 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
65 \$10,000. A membership organization or corporation may not reimburse any person the amount
66 of any fine imposed pursuant to this section.

67 (e) To ensure uniform administration and application of the provisions of this section and
68 of those of the Federal Election Campaign Act Amendments of 1976 relating to membership
69 organization ~~and corporate~~ contributions, the State Election Commission shall propose rules for
70 legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions
71 of this section consistent, insofar as practicable, with the rules and regulations promulgated by
72 the Federal Election Commission to carry out similar or identical provisions of 52 U.S.C. §30118.

73 (f) In addition to the powers and duties set forth in §3-1A-1 *et seq.* of this code, the State
74 Election Commission has the following powers and duties:

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to limit individual contributions to a political candidate to \$1,000. The bill prohibits all contributions to a corporation's political action committee.

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