

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Introduced**

## **Senate Bill 49**

BY SENATORS HAMILTON, BALDWIN, PLYMALE, ROMANO,

AND LINDSAY

[Introduced February 10, 2021; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-8-2b of the Code of West Virginia, 1931, as amended, relating  
2 to requiring a political action committee to disclose the names and addresses of its  
3 contributors to the Secretary of State.

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

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

### **§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 15th day but more than 12 hours before the  
5 day of any election for the direct costs of purchasing, producing, or disseminating electioneering  
6 communications during any calendar year shall, within 24 hours of each disclosure date, file with  
7 the Secretary of State, a statement which contains all of the information listed in subsection (b) of  
8 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, and the  
11 name of the custodian of the books and accounts of the person making the expenditure;

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

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

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

21 the identified candidates; and

22 (5) The names and addresses of any contributors who contributed a total of more than  
23 \$1,000 between the first day of the preceding calendar year and the disclosure date and whose  
24 contributions were used to pay for electioneering communications.

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

27 (1) The month, day and year that the contributions of any single contributor exceeded  
28 \$250;

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

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

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

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

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

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

46 (e) In each electioneering communication, a statement shall appear or be presented in a

47 clear and conspicuous manner that:

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

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

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

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

60 (h) The Secretary of State is hereby directed to propose legislative rules and emergency  
61 rules implementing this section for legislative approval in accordance with the provisions of §29A-  
62 3-1 *et seq.* of this code.

63 (i) If any person, including, but not limited to, a political organization (as defined in Section  
64 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any expenditure  
65 for electioneering communications which is coordinated with and made with the cooperation,  
66 consent or prior knowledge of a candidate, candidate's committee or agent of a candidate, the  
67 expenditure shall be treated as a contribution and expenditure by the candidate. If the expenditure  
68 is coordinated with and made with the cooperation or consent of a state or local political party or  
69 committee, agent or official of that party, the expenditure shall be treated as a contribution to and  
70 expenditure by the candidate's party.

71 (j) A political action committee shall disclose the names and addresses of its contributors  
72 to the Secretary of State. If the contributor is another political action committee, the name and

73 address of that political action committee registered with the State Election Commission shall be  
74 disclosed to the Secretary of State.

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

NOTE: The purpose of this bill is to require a political action committee to disclose the names and addresses of its contributors to the Secretary of State.

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