

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Election Commission TITLE NUMBER: 146

CITE AUTHORITY: § 3-1A-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Regulation of Campaign Finance

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

PROPOSED LEGISLATIVE RULE §146-3

Regulation of Campaign Finance

Brief Summary

The purpose of this rule is as follows:

- 1) To create definitions for terms used within this rule and to update the definitions of terms used within this rule to reflect the same definitions of terms used in West Virginia Code.
- 2) To update the rule to reflect the changes in West Virginia Code §3-8-10 regulating the proper use of excess campaign funds.
- 3) To update the rule to reflect the changes in West Virginia Code §3-8-5 regarding the timing and means of submitting reports to be filed for campaign finances.
- 4) To update the rule to reflect the changes in West Virginia Code §3-8-2 regarding the reporting requirements of federal committees that have state and local activity.
- 5) To further clarify the use of a political disclaimer to ensure a political advertisement is not made anonymously, as required by West Virginia Code 3-8-12(b).
- 6) To further clarify membership organization activity and to establish guidelines regarding the solicitation of contributions to a separate segregated fund established by a membership organizations and the use of a membership organization's facilities for political purposes.

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TITLE 146
LEGISLATIVE RULE
ELECTION COMMISSION

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 3
REGULATION OF CAMPAIGN FINANCE

§146-3-1. General.

1.1. Scope. -- This rule clarifies and provides for implementation of state law relating to the regulation of campaign finance, reporting requirements and prohibited activities set forth under W. Va. Code §3-8-1 et seq.

1.2. Authority. -- W. Va. Code §3-1A-5.

1.3. Filing Date. --

1.4. Effective Date. --

§146-3-2. Definitions.

2.1. "Ballot issue" means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter adoption or revision, an increase or decrease of corporate limits, or any other question placed before the voters under the provisions of the West Virginia Code.

2.2. "Ballot issue committee" means a political committee established solely for the purpose of advocating or opposing a ballot issue and which makes no expenditures to or on behalf of a candidate, political party or other political committee.

2.3. "Business affiliation" means the name of an individual's employer, or the name of the firm, business or organization, if any, with which a self-employed individual is primarily affiliated.

2.4. "Candidate" means an individual who:

2.4.1. has filed a certificate of announcement under W. Va. Code §3-5-7 or a municipal charter;

2.4.2. has filed declaration of candidacy under W. Va. Code §3-5-23;

2.4.3. has been named to fill a vacancy on a ballot; or

2.4.4. has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election to a state, district, county or municipal office or party office to be filled at any primary, general or special election.

2.5. "Candidate's committee" means a political committee established with the approval of or in cooperation with one pre-candidate or candidate to explore the possibilities of seeking a particular office and/or to advocate his or her nomination or election to an office in one election cycle. If a candidate directs or influences the activities of more than one committee, those committees shall be considered one committee for the purpose of contribution limits.

2.6. "Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality.

2.7. "Grossly incomplete or grossly inaccurate" means that a financial statement as defined under W. Va. Code §3-8-5 is missing information required by W. Va. Code §3-8-12 et seq and State Election Commission, Regulation of Campaign Finance, 146 CSR 3.

2.8. "Member" means all persons who are currently satisfying the requirements for membership in a membership organization, affirmatively accept the membership organization's invitation to become a member, and either:

(a) Pay membership dues at least annually, of a specific amount predetermined by the organization; or

(b) Have a significant organizational attachment to the membership organization which includes: affirmation of membership on at least an annual basis; and direct participatory rights in the governance of the organization. For example, such rights could include the right to vote directly or indirectly for at least one individual on the membership organization's highest governing board; the right to vote directly for organization officers; the right to vote on policy questions where the highest governing body of the membership organization is obligated to abide by the results; the right to approve the organization's annual budget; or the right to participate directly in similar aspects of the organization's governance.

2.9. "Membership Organization" means an organization that:

(a) Is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, pursuant to the organization's articles, bylaws, constitution or other formal organizational documents;

(b) Expressly states the qualifications and requirements for membership in its articles, bylaws, constitution or other formal organizational documents;

(c) Makes its articles, bylaws, constitution, or other formal organizational documents available to its members upon request;

(d) Expressly solicits persons to become members;

(e) Expressly acknowledges the acceptance of membership, such as by sending a membership card or including the members' name on a membership newsletter list; and

(f) Is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to office.

2.810. "Necessary traveling and hotel expenses" includes mileage at a rate not to exceed the current state-mandated reimbursement rate per mile or direct charges for transportation and itemized food and lodging costs incurred specifically for the purpose of campaigning or conducting the organizational, political or financial business of a political committee or candidate's campaign. The term does not include the purchase cost of any vehicle, or expenditures for traveling and hotel expenses incurred for activities which result primarily in personal benefit and are not directly and specifically undertaken for political purposes.

2.911. "Nominal noncash expressions of appreciation" means a token of appreciation, having a cash value of three dollars (\$3.00) or less, given to volunteer or paid campaign workers following the close of the polls or within 30 days thereafter.

2.1012. "Occupation" means the principal work activity which is described by a general term such as teacher, miner, business executive, homemaker or doctor.

2.13. "Political Action Committee" means a committee organized by one or more persons for the purpose of supporting or opposing the nomination or election of one or more candidates. The following are types of political action committees:

(a) A corporate political action committee;

(b) A separate segregated fund established by a membership organization, as defined by this rule;

(c) An unaffiliated political action committee.

2.114. "Political committee" means an association of persons, an organization of any kind, or any two (2) or more persons acting together, wholly or in part, to receive or expend money or other thing of value for political purpose any candidate committee, political

action committee or political party committee.

2.14.1. This definition includes but is not limited to political party executive committees, other committees operating in conjunction with a political party or using a political party name, political action committees and any other organizations, whether temporarily or permanently established, using any portion of their funds for political purposes.

2.14.2. This definition shall not include family members or members of a partnership acting together to make joint or individual contributions to a candidate or political committee.

2.15. "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination or defeat of a candidate in any election.

2.126. "Political purposes" means advocating or opposing the nomination, election or defeat of one or more candidates, supporting the administration or activities of an established political party or an organization which has declared itself a political party, supporting the administration or activities of a political committee, ~~advocating or opposing the passage or defeat of a ballot issue~~, determining the advisability of becoming a candidate under the pre-candidacy financing provisions, and supporting the retirement of the debt of a candidate or political committee incurred for any of the purposes set forth in this subsection.

2.137. "Pre-candidate" means, for the purpose of this rule, an individual who has filed a pre-candidacy statement under the provisions of W. Va. Code §3-8-5e but has not yet filed a certificate of announcement or declaration of candidacy. This definition does not exclude a pre-candidate from the requirements and prohibitions relating to candidates in the West Virginia Code.

2.18. "Restricted Group" means, for the purpose of this series, its members and the executive or administrative personnel of the membership organization and their families.

2.149. "Solicit" or "solicitation" means the act of asking, suggesting, requiring or inviting, either orally or in writing, a person or persons, organization of any kind, political committee or other entity to give a contribution or other thing of value for political purposes, as defined in this section.

2.1520. "Treasurer" means an individual designated to act on behalf of a political committee to conduct the financial transactions of the committee. For the purposes of this rule, the term "treasurer" shall be used in place of "financial agent" as defined in W. Va. Code §3-8-41a when the individual acts on behalf of more than one candidate or person.

§146-3-3. Contributions for Primary and General Elections.

3.1. A contribution to a pre-candidate or pre-candidate's committee is a contribution in connection with a primary election.

3.2. A contribution to a candidate or candidate's committee is a contribution in connection with a primary election in the following circumstances:

3.2.1. For a candidate for nomination or election in the primary or for nomination by petition, all contributions received on or before the primary election day;

3.2.2. For a candidate nominated in the primary election, a contribution received after the primary which is designated in writing on the financial report, with the consent of the contributor, as a contribution for the primary election, providing the aggregate of all these designated contributions do not exceed the total of unpaid

bills, loans or other financial obligations incurred for the primary election;

3.2.3. For a candidate defeated for nomination in the primary election, all contributions received after the primary, not to exceed the total of unpaid primary election expenses; and

3.2.4. For a candidate for nomination in a party convention, all contributions received on or before the day of that convention.

3.3. A contribution to a candidate or candidate's committee is a contribution in connection with a general or special election in the following circumstances:

3.3.1. For a candidate nominated in a primary election or party convention, all contributions, except those designated as primary contributions under subdivision 3.2.2, of this section received after the nomination and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid; and

3.3.2. For a candidate appointed to fill a vacancy on the general or special election ballot by a party executive committee, all contributions received in connection with the election and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid.

3.4. A contribution to a political committee, other than a candidate's committee, acting for political purposes in both the primary and general election is a contribution:

3.4.1. In connection with a primary election, if the contribution is received on or after the last Saturday in March of a non-election year and by the date of the primary election in the following calendar year (for example, from March 27, 1999, to May 8, 2000); and

3.4.2. In connection with a general election, if the contribution is received after the date of a primary election and not later than the day before the last Saturday of March of the following calendar year (for example, from May 10, 2000 to March 24, 2001).

3.5. A contribution to a political committee acting for political purposes only in one election is a contribution in connection with that election.

§146-3-4. Contributions for Inaugural Events.

4.1. An inaugural committee established for the purpose of soliciting or receiving contributions for the funding of all or any part of an inaugural event for any person elected to any state public office shall file a verified financial statement with the Secretary of State's Office relating to any contributions from one person in excess of two hundred fifty dollars (\$250.)

4.2. An inaugural committee shall file and retain detailed records of any contribution from one person in excess of two hundred fifty dollars (\$250.).

4.3. For purposes of this section, "detailed records" shall contain the following information:

4.3.1 The full name of each person, firm, association or committee;

4.3.2 The residence and mailing address of the contributor and may include a business telephone number, if available;

4.3.3 In the case of an individual, his or her major business affiliation and occupation; and

4.3.4 The amount of the contribution.

4.4. The inaugural committee, financial agent or any person or officer acting on behalf of the committee shall file a sworn ~~and notarized~~ financial statement, containing the information required by subsection 4.3 of this section for each person making a contribution in excess of two hundred fifty dollars (\$250.), within ninety (90) days following the inaugural event.

4.5. The sworn ~~and notarized~~ financial statement shall be on a form prescribed by the State Election Commission.

4.6. Aggregate contributions of any person to any inaugural committee shall not exceed \$5,000.

4.7. Excess campaign funds, as defined in section 7 of this rule, may not be transferred to an inaugural committee.

§146-3-5. Contribution Limitations and Sources.

5.1. Limitations on contributions to candidates for national elective office (including President, Vice President, U.S. Senate and U.S. House of Representatives) are established in Chapter 14, Title 2 of the United States Code and the Code of Federal Regulations and are not subject to regulation by the states. The Federal Election Commission regulates federal campaign activity. (FEC, 999 E Street, N. W., Washington, D.C. 20463. Telephone (800)424-9530)

5.2. Aggregate contributions from one person to a ~~candidate or political committee~~ in connection with a primary election may not exceed one thousand dollars (\$1,000). Aggregate contributions from one person to a ~~candidate or political committee~~ in connection with a general or special election may not exceed one thousand dollars (\$1,000); Provided, Aggregate aggregate contributions from one person to a State political party executive committee may not exceed one thousand dollars (\$1,000.) in any calendar year. The term person is defined by W. Va. Code §3-8-41a.

5.3. A contribution made by a business licensed as a sole proprietorship is a contribution made by the owner of that sole proprietorship. The aggregate contribution limits apply to all contributions to ~~a candidate or political committee~~ made by that owner, whether from personal or business funds.

5.4. A contribution made by a business licensed as a partnership is a contribution which shall be apportioned to the ownership interest of the partners. The aggregate contribution limits apply to contributions to a ~~candidate or political committee~~ made by each partner whether from personal funds or from the contributor's share of partnership funds.

5.5. A husband and wife may each contribute one thousand dollars (\$1,000) to the same ~~candidate or political committee~~ in connection with the same election, regardless of the source of family income.

5.6. A contribution made by check drawn on a joint personal account shall be attributed to the person who signed the check, or equally to the persons signing the check, unless otherwise specified in writing by the contributor.

5.7. Minor children (children under eighteen (18) years of age) may contribute up to one thousand dollars (\$1,000) to a ~~candidate for an election~~ political committee if:

5.7.1. The decision to contribute is made knowingly and voluntarily by the minor child;

5.7.2. The funds, goods or services contributed are owned and controlled by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained in the child's name; and

5.7.3. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be

contributed or is not in any other way controlled by another individual.

5.8. When a contributor designates all or part of a contribution for the benefit of a particular candidate and makes that contribution to a political committee acting with the approval or control of that candidate, the contribution shall be considered to be an indirect contribution to the designated candidate and is subject to the aggregate contribution limits for that candidate.

5.9. A candidate or candidate's committee established for one primary and general election may transfer excess campaign assets to the same candidate's campaign or committee for a subsequent election year, and the transfer is not limited by aggregate contribution limits.

5.10. The aggregate contribution by a person to a ballot issue committee is not limited; and corporate contributions to a ballot issue committee are not prohibited.

5.11. Transfers of contributions by a political committee established as a federal committee under the regulation of the Federal Election Commission (FEC) from the committee's federal account to a state account shall not be made for the purpose of allowing any contributor to exceed the maximum contribution per election to the state account.

5.12. If a candidate or candidate's committee has excess campaign funds at the time of the close of the General Election polls, close of the Primary Election polls if unsuccessful in the nomination in the Primary Election or withdrawal of candidacy or pre-candidacy filing the post-election financial report, no further contributions may be accepted until the candidate files a pre-candidacy statement for a subsequent election.

5.13. If a candidate or candidate's committee has debts, outstanding loans or unpaid bills at the time of the close of the General Election polls, close of the Primary Election polls

if unsuccessful in the nomination in the Primary Election or withdrawal of candidacy or pre-candidacy filing the post-election financial report, further contributions may be accepted only until an amount sufficient to repay the debts and outstanding loans has been received.

§146-3-6. Lawful Expenditures.

6.1. Funds belonging to or received by a ~~candidate or political committee for political purposes~~ may be used to employ persons to perform those functions enumerated in W. Va. Code §3-8-9, either on a full-time, part-time or temporary basis, providing the provisions of State Election Commission, Regulation of Campaign Finance, 146 CSR 3 are complied with.

6.2. Funds belonging to or received by a ~~candidate or political committee for political purposes~~ may be used for reasonable office expenses enumerated in W. Va. Code §3-8-9.

6.3. No money or thing of value derived from contributions received by a ~~candidate or political committee~~ may be paid to or given to any person, except:

6.3.1. as lawful payment for goods provided, services rendered or reimbursement of expenses incurred for political purposes as defined in subsection 2 of this rule;

6.3.2. as food, entertainment or costs incidental to a fund-raising event or public meeting;

6.3.3. as printed campaign promotional items of nominal value which clearly identify the candidate, or party; or

6.3.4. as a nominal noncash expression of appreciation to campaign workers as defined in subsection 2.129 of this rule, following the close of the polls or within 30 days thereafter.

6.4. A candidate may be reimbursed from contributions received for lawful election expenses paid from the personal funds of the candidate, providing receipts are retained and those itemized expenditures are reported in a timely manner as required by law.

6.5. No candidate may receive any payment of money or other thing of value for personal use from funds solicited or received for political purposes on his or her behalf, except as reimbursement as provided in subsection 6.4 of this rule.

§146-3-7. Disposing of Excess Campaign Assets, Terminating a Political Committee.

7.1. Excess campaign assets are those monies, materials, equipment or other things of value derived from contributions which:

7.1.1. remain in the possession of the pre-candidate or pre-candidate's committee at the conclusion of pre-candidacy when the pre-candidate decides not to become a candidate;

7.1.2. remain in the possession of the candidate or candidate's committee after the candidate loses in the primary election or after the candidate's general election and after debts, loans and other liabilities are repaid; or

7.1.3. belong to a political committee which wishes to discontinue activity and dissolve.

7.2. Excess campaign assets may be lawfully:

7.2.1. transferred from a candidate's committee organized for one election year to the same candidate's committee for a subsequent election year, providing that candidate has filed a pre-candidacy statement and a statement of organization of the new committee before the transfer is made;

7.2.2. distributed for a lawful election expense enumerated in W. Va. Code §3-

~~8-910~~ by making a contribution to one or more political party committees, other political committees or candidates, in accordance with the existing limitations on contributions;

7.2.3. returned on a pro-rata basis to each contributor;

7.2.4. subject to Internal Revenue Service regulations relating to personal income, used by the candidate to defray any ~~ordinary and necessary~~ usual and customary expenses incurred in connection with his or her duties as a holder of public office;

7.2.5. contributed to any charitable organization without limitation; or

7.2.6. transferred to any ~~national, state or local committee of any political party; executive committee or state party legislative caucus committee,~~ in an amount not to exceed fifteen thousand dollars in a calendar year; or

7.2.7. contributed to any national committee in accordance with federal requirements.

7.3. No person may receive or utilize excess campaign assets for personal economic benefit or use.

7.3.1. Subject to subdivision 7.2.4 of this section, supplies or equipment purchased by an office holder and used to defray any ~~ordinary and necessary~~ usual and customary expenses incurred in connection with his or her duties as a holder of public office becomes the property of the state, or the district, county, or municipality in which the office is held.

7.4. No candidate, financial agent or treasurer may distribute excess campaign assets through personal gifts, promotional items or other expenditures not authorized by W. Va. Code §3-8-910 or W. Va. Code §3-8-9(a)(13).

7.5. A political committee which is solvent and has no outstanding debts or obligations may terminate its existence by:

7.5.1. filing a statement of dissolution with the Secretary of State, if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of the entire state, or a candidate for nomination or election for any office encompassing an election district larger than a county, or the passage or defeat of any issue, thing or item to be voted upon, encompassing an election larger than a county; or

7.5.2. filing a statement of dissolution with the county clerk or municipal clerk or recorder, or other such election officer as defined in State Election Commission, Regulation of Campaign Finance, 146 CSR 3, as may be determined proper by the Secretary of State, if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of a county or district therein, or for the passage or defeat of any issue, thing or item to be voted upon, encompassing the electorate of a county or district therein; and,

7.5.3. stating within the written request that the political committee will no longer receive any contributions or make any disbursements; and,

7.5.4. stating within the written request that the political committee has no outstanding debts or obligations; and,

7.5.5. stating within the written request that any excess funds of the political committee will be transferred to a political committee established by the same candidate, or established for the passage or defeat of the same issue, thing or item, or will be otherwise disbursed pursuant to subsection 6:2 7.2 of this rule.

7.6. The Secretary of State's Office may, upon the request of the committee, make

determinations as to the solvency or insolvency of a political committee, including:

7.6.1. the orderly liquidation of an insolvent political committee;

7.6.2. the orderly application of the assets of an insolvent political committee toward reduction of its outstanding debts;

7.6.3. the assessment of any forgiven debts as being political contributions; and,

7.6.4. the termination of an insolvent political committee after the liquidation and application of assets.

§146-3-8. Receiving, Distributing and Reporting Contributions and Expenditures.

8.1. The treasurer of a political committee receives all contributions and disburses all funds, and it is unlawful for a person or persons other than the treasurer to receive and disburse funds without the treasurer's knowledge and participation.

8.2. A candidate who does not appoint another person as financial agent or organize a candidate's committee and appoint a treasurer at least twenty-eight (28) days prior to the election at which he or she is to act shall be considered to be the financial agent for his or her own campaign.

8.3. A financial report shall include all financial transactions occurring during the accounting period just completed, and any other financial transactions which have not been reported previously. Financial reports shall be in the form prescribed by the State Election Commission.

8.4. For the purpose of financial accounting and reporting, an election cycle is divided into accounting periods. The first accounting period begins on the date of the first financial transaction. The last day of each

accounting period is the day before the next financial report may be filed. Accounting periods end on the following dates:

8.4.1. the day before the last Saturday in March of each year;

8.4.2. the ~~eleventh~~ sixteenth day before the primary election;

8.4.3. the ~~twenty-fourth~~ twelfth day after the primary election;

8.4.4. ~~the day before the last Saturday in September~~ the forty fourth day preceding the general election;

8.4.5. the ~~eleventh~~ sixteenth day before the general election; and

8.4.6. the ~~twenty-fourth~~ twelfth day after the general election.

8.5. Financial reports may be filed, pursuant to W. Va. Code §3-8-5b,

8.5.1. by mail;

8.5.2. in person; or,

8.5.3. by facsimile or other electronic means of transmission to be established by the Secretary of State.

8.6. Filing dates for each method of delivery shall be determined as follows:

8.6.1. For mailings, the filing date is the date of the postmark of the United States Postal Service;

8.6.2. For hand delivery, the filing date, is the date of delivery to the proper reporting agency or entity during regular business hours of such office; and

8.6.3. For the facsimile or other electronic means of transmission, the filing date is the date of delivery to the appropriate reporting

agency or entity ~~during regular business hours of the office.~~

8.7. Financial statements which are delivered by facsimile or other means of electronic transmission shall be limited in length to fifteen (15) pages, including a cover page. When delivered by a facsimile or other electronic means of transmission, original signed and sworn financial statements shall be postmarked or hand delivered to the appropriate reporting agency or entity within twenty-four (24) hours of the date of the facsimile or other means of electronic transmission.

8.8. For the purpose of reporting contributions, a contribution occurs on the date the check, cash or other thing of value is received by the treasurer or agent of the political committee. No person acting as agent for the candidate, treasurer or committee shall knowingly withhold a contribution from the treasurer to prevent the reporting of the contribution until a later reporting period.

8.9. For the purpose of reporting unpaid bills, a liability is incurred on the date a bill for goods received or services rendered is received by the treasurer or agent of the political committee.

8.10. For the purpose of reporting expenditures, an expenditure is made on the date the treasurer or agent of the political committee writes the check or transfers cash to any person to pay for goods or services rendered. No transfer may be made to an intermediary to avoid reporting an expenditure in a particular reporting period.

8.11. Persons making independent expenditures shall report those expenditures according to W. Va. Code §3-8-2.

8.12 Persons making electioneering communications shall report those expenditures according to W. Va. Code §3-8-2a.

§146-3-9. State and Local Activity by Federal Committees.

~~9.1. Nothing in this rule shall be construed to exempt a federal committee from the requirements of W. Va. Code §3-8-1 et seq. as to monies or other things of value received and disbursed for election expenses on behalf of state and local candidates, political committees and ballot issues.~~

9.1. A political committee other than a candidate's committee which properly establishes and maintains an account with the Federal Election Commission shall be in compliance with the state reporting requirements if all requirements are met in reporting with the Federal Election Commission. No additional reporting requirements are applicable to meet the requirements of W. Va. Code §3-8-1 et seq.

9.2. When a federal committee maintains a state account, the treasurer shall not place in its federal account, funds which have been designated by the contributor for use in state, district, county and municipal election activities. The funds shall be placed directly into the state account, and are subject to state reporting requirements and contribution limits.

9.3. The treasurer of a federal committee may not knowingly transfer into a state account or disburse on behalf of a state or local candidate or political committee any portion of an individual contributor's contribution which exceeds one thousand dollars (\$1,000) per election.

~~9.4. A federal committee which maintains a state account may comply with state reporting requirements by filing reports on the forms prescribed by the Secretary of State under the rules and at the times required by the W. Va. Code and State Election Commission, Regulation of Campaign Finance, 146 CSR 3.~~

~~9.5. A federal committee which maintains only a federal account may comply with state reporting requirements by filing with~~

~~the applicable federal report an addendum itemizing in the manner required by the West Virginia State Code and State Election Commission, Regulation of Campaign Finance, 146 CSR 3:~~

~~9.5.1. all contributions and loans received from West Virginia residents;~~

~~9.5.2. all liabilities incurred or expenditures made to or on behalf of any state or local candidate, political committee or ballot issue; or~~

~~9.5.3. an oath given by the treasurer that the addendum contains a true and correct report of all financial transactions relating to state and local candidates, political committees or ballot issues in West Virginia;~~

§146-3-10. Solicitation for Political Purposes.

10.1. No person may lawfully solicit and accept funds for political purposes on behalf of any individual before that individual becomes a pre-candidate or a candidate as defined in this rule.

10.2. No person may lawfully solicit and accept funds on behalf of any political committee, other than a candidate's committee, before that committee files a statement of organization and appoints a treasurer.

10.3. No person may lawfully solicit and accept funds on behalf of any candidate or any elected official if no outstanding debt remains from a previous election, except in that a pre-candidate, candidate or political committee may solicit or accept funds if pre-candidacy papers have been filed for an upcoming primary or general election.

10.4. A person who solicits funds to retire a debt incurred for political purposes by a candidate or committee during a previous primary or general election is soliciting funds

in connection with that campaign for nomination or election.

10.5. A solicitation which is broadcast by radio or television or published in a newspaper or other publication of general circulation shall not be considered to violate any prohibition against solicitation of the members of specific groups.

10.6. A solicitation which is conducted randomly by such means as bulk mail to boxholders, broad literature distribution in a geographic area, or random-number telephone solicitations shall not be considered to violate any prohibition against solicitation of the members of specific groups, providing solicitations of the members of specific groups are not knowingly and purposely included in the random solicitation.

10.7. A solicitation directed to individuals by name shall not be considered to violate the prohibition against solicitation of public employees if that solicitation prominently contains the words "Please disregard if you are a public employee" or words to that effect, providing solicitations of members of prohibited groups are not knowingly and purposely included in the solicitation.

10.8. A solicitation specifically on behalf of one or more candidates for President, Vice President, U.S. Senate or U.S. House of Representatives is governed by the United States Code and the Code of Federal Regulations and is not subject to regulation by the state.

10.9. A solicitation within the state by a federal committee is subject to the W. Va. Code and State Election Commission, Regulation of Campaign Finance, 146 CSR 3, if all or part of any contribution received as a result of the solicitation is used to support one or more candidates in West Virginia.

§146-3-11. Procedures for Levying Civil Penalties

11.1. A campaign finance report shall not be grossly incomplete or grossly inaccurate if:

11.1.1. the filing officer has notified, by certified mail, the individual or committee responsible for filing the report that the report is incomplete or inaccurate;

11.1.2. corrections to the report are received by the filing officer no later than ten (10) days after the individual or committee has been notified of the inaccuracies; and

11.1.3. in the case of a financial statement due not less than seven ~~three~~ nor more than ten-fifteen ~~ten~~ days preceding each primary or other election, corrections to the report are received by the filing officer no later than twenty-four (24) hours after the individual or committee has been notified of the inaccuracies or deficiencies.

11.2. A report shall be considered to be delinquent if:

11.2.1. It is received after the deadlines established by W. Va. Code §3-8-5; and

11.2.2. It bears a U.S. Postal Service postmark dated after the deadline.

11.3. A report shall not be considered delinquent if:

11.3.1. The report is filed late due to the death of the candidate, treasurer, or other individual responsible for filing the reports; or

11.3.2. The report is filed late due to a serious illness of the candidate, treasurer, or other individual responsible for filing the reports; and

11.3.3. A written notification of either death or serious illness is received by

the filing officer no later than sixty days after the last day the financial statement is due. Upon receipt of the notification, the filing officer may grant an extension of time for the filing of the financial statement.

§146-3-12. Political Disclaimers.

12.1. No person may publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, radio or television advertisement or other publication supporting or aiding the election or defeat of a clearly identified candidate.

12.2. No person will be in violation of the rule 12.1 above if on the communication the words "Paid for by (name of the person paying for the communication)" are visible and legible on the face of the communication.

§146-3-13. Membership Organization Activity

13.1. Any membership organization which for political purposes desires to involve itself outside the organization's restricted group must establish a separate segregated account to receive funds for such purpose.

13.2. Any membership organization which raises funds for political purposes by payroll deduction, as an assessment of a part of its membership dues, or as a separate assessment, may report the amount raised as follows:

13.2.1. If the portion of dues or assessments designated for political purposes equals twenty-five dollars or less per member over the course of a calendar year, the total amount raised for political purposes through membership dues or assessments during the period is reported by showing the amount required to have been paid by each member and the number of paying members.

13.2.2. If the total payroll deduction for political purposes of each participating member

equals twenty-five dollars or less over the course of a calendar year or fiscal year, as specified by the organization, the organization shall report the total amount received for political purposes through payroll deductions during the reporting period and, to the maximum extent possible, the amount of yearly payroll deduction contribution level and the number of members contributing at each such specified level. The membership organization shall maintain records of the name and yearly payroll deduction amounts of each participating member.

13.2.3. A membership organization may accept contributions by its members by means other than payroll deductions, membership dues, or assessments, but shall be reported in accordance with the provisions of WV Code §3-8-5a(a)(3).

13.3. Administrative functions performed by a membership organization that shall not be deemed contributions to the separate segregated fund established for political purposes and shall not need to be reimbursed by the separate segregated fund include:

13.3.1. Expenditures made for public editorials or commentaries produced in the ordinary course of business by membership organization whose primary purpose is journalism or public communications.

13.3.2. Direct communications by a membership organization to its restricted group on any subject, by any means not intended to reach the general public. Such communications by a membership organization to its restricted group may be made by, but are not limited to, the following means:

(a) The distribution of printed material by a membership organization to its restricted group: Provided, That

(1) The material is disseminated at the expense of the membership organization; and

(2) The material clearly states that it constitutes a communication of the views of the membership organization.

(b) The allowing of a candidate or party representative to address the restricted group of the membership organization at any meeting, convention or other regularly scheduled function of the membership organization which is primarily held for other purposes. The membership organization shall pay no compensation whatsoever to such candidates. The candidate or party representative may address members of the restricted group in their individual rather than membership organization capacities, and may at such time ask for individual contributions to his or her campaign or party, ask that such contributions to be sent to his or her campaign or party, or ask that contributions to a separate segregated fund established by the membership organization be designation for his or her campaign or party.

(c) The establishment and operation of phone banks by a membership organization to communicate with its restricted group urging them to register and/or vote for a particular candidate or candidates.

(d) The conducting of nonpartisan registration and get-out-the-vote drives, as by providing transportation to the polls, by a membership organization aimed at its restricted group. If a registration drive is undertaken, assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

13.4 The establishment and administration of a separate segregated fund of a membership organization, or persons acting on its behalf, may, subject to the authorization of such membership organization, use the real or personal property, facilities and equipment of any membership organization that participated in the establishment or participates in the

administration or solicits contributions on behalf of such separate segregated fund established by the membership organization. The cost of such use of property, real or personal, facilities or equipment need not be reimbursed to the membership organization so long as such costs are incurred in setting up and running the separate segregated fund established by the membership organization. Such costs that need not be reimbursed include the costs of office space, phones, utilities and supplies.

§146-3-124. Penalty Provision.

124.1. Any person violating the provisions of this rule is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars, nor more than five thousand dollars, and shall be confined in jail for not less than six months nor more than one year.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Regulation of Campaign Finance

Type of Rule: Legislative Interpretive Procedural

Agency: State Election Commission

Address: 1900 Kanawha Blvd., East Building 1 Suite 157-K Charleston, WV 25305

Phone Number: 1-304-558-6000 Email: ghoward@wvsos.com

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No fiscal impact from this rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00		
Personal Services	0.00		
Current Expenses	0.00		
Repairs & Alterations	0.00		
Assets	0.00		
Other	0.00		
2. Estimated Total Revenues	0.00		

Rule Title: _____

Rule Title: Regulation of Campaign Finance

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

N/A

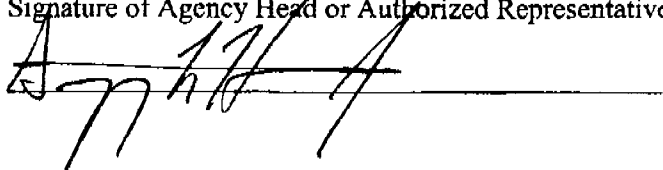
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A

Date: 6/28/2007

Signature of Agency Head or Authorized Representative

A handwritten signature in black ink, appearing to be "A. J. H. A.", is written over a horizontal line.

Memorandum

To: Judy Cooper

From: Bryan Cummings

Date: 7/25/2007

Re: Legislative Rule - Title Number: 146 - Series Number: 3

No Comment Received.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/27/2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Election Commission
Building 1 Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

LEGISLATIVE RULE TITLE: Regulation of Campaign Finance

1. Authorizing statute(s) citation § 3-1A-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 28, 2007

b. What other notice, including advertising, did you give of the hearing?
N/A

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 27, 2007

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 27, 2007

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

State Election Commission
Greg Howard, Chief Counsel
Building 1 Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

State Election Commission
Bryan Cummings, Assistant to Counsel
Building 1 Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A