

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2805

(BY DELEGATE(S) MANCHIN, MILEY, ELLEM, LANE,
FLEISCHAUER, MANYPENNY, GUTHRIE, CAPUTO,
REYNOLDS, WHITE AND SKINNER)

[Passed April 13, 2013; in effect from passage.]

AN ACT to repeal §3-12-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1A-5 of said code; and to amend and reenact §3-12-1, §3-12-2, §3-12-3, §3-12-4, §3-12-6, §3-12-7, §3-12-9, §3-12-10, §3-12-11, §3-12-13, §3-12-14 and §3-12-16 of said code, all relating to making the West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program a permanent program; removing provisions permitting receipt of supplemental or rescue public campaign financing funds; providing certain findings; limiting collections by, and contributions to, a participating candidate in certain circumstances; requiring all contributions to candidates participating in the program be collected by the candidate's financial agent; providing for the transfer of additional moneys to the program's fund; allowing the program's funds to be invested, with retained

earnings; increasing the amounts of financing certified candidates may receive in contested elections; removing certain reporting requirements; removing the doubling of civil penalties in certain circumstances; and repealing the July 1, 2013, sunset provisions for the program and its fund.

Be it enacted by the Legislature of West Virginia:

That §3-12-17 of the Code of West Virginia, 1931, as amended, be repealed; that §3-1A-5 of said code be amended and reenacted; and that §3-12-1, §3-12-2, §3-12-3, §3-12-4, §3-12-6, §3-12-7, §3-12-9, §3-12-10, §3-12-11, §3-12-13, §3-12-14 and §3-12-16 of said code be amended and reenacted, all to read as follows:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-5. Powers and duties of commission; legislative rules.

1 (a) The commission has the power and duty to approve or
2 disapprove applications for approval of any voting machine as
3 provided in section seven, article four of this chapter.

4 (b) The commission also shall serve as a body advisory to
5 the Secretary of State, and, as such, shall have the following
6 powers and duties:

7 (1) To recommend policies and practices pertaining to the
8 registration of voters and the conduct of elections generally;

9 (2) To review the work of the office of Secretary of State
10 pertaining to the duties of that office with respect to elections,
11 and for this purpose to have access at reasonable times to
12 pertinent records, books, papers and documents;

13 (3) To consider and study the election practices of other
14 jurisdictions, with a view to determining the techniques used in
15 eliminating fraud in elections and in simplifying election
16 procedures;

17 (4) To advise or make recommendations to the Governor
18 relative to election practices and policy in the state;

19 (5) To advise the Secretary of State on carrying out the
20 duties to which he or she is assigned pursuant to the West
21 Virginia Supreme Court of Appeals Public Campaign Financing
22 Program, established in article twelve of this chapter;

23 (6) To carry out the duties assigned to the commission by the
24 West Virginia Supreme Court of Appeals Public Campaign
25 Financing Program, established in article twelve of this chapter;
26 and

27 (7) To keep minutes of the transactions of each meeting of
28 the commission, which shall be public records and filed with the
29 Secretary of State.

30 (c) It is the commission's further duty to prepare and
31 distribute in its name, within available appropriations and upon
32 the recommendation of the Secretary of State, nonpartisan
33 educational material to inform voters of the importance of
34 voting, to encourage voters to vote, to inform voters of election
35 laws and procedures, and to inform voters of the effect of any
36 public question, Constitutional amendment or bond issue that is
37 to be voted upon by all the voters of the state and that has been
38 authorized to be placed upon the ballot by the Legislature, and
39 manuals to assist county commissions, ballot commissioners,
40 circuit and county clerks and other election officials in the
41 proper performance of their duties in the conduct of elections.

42 (d) The commission shall propose for promulgation
43 emergency and legislative rules, in accordance with article three,
44 chapter twenty-nine-a of this code, as may be necessary to
45 standardize and make effective the administration of article eight
46 of this chapter, and may propose for promulgation other rules, in
47 accordance with article three, chapter twenty-nine-a of this code,
48 relating to the conduct and administration of elections as the
49 commission determines to be advisable.

50 (e) Meetings of the commission conducted for the purpose
51 of confirming the eligibility of individual candidates to receive
52 public campaign financing under the West Virginia Supreme
53 Court of Appeals Public Campaign Financing Fund are expressly
54 exempted from the public notice and public meeting
55 requirements of article nine-a, chapter six of this code.

**ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC
CAMPAIGN FINANCING PROGRAM.**

§3-12-1. Short title.

1 This article is known as the “West Virginia Supreme Court
2 of Appeals Public Campaign Financing Program”.

§3-12-2. Legislative findings and declarations.

1 The Legislature finds and declares the following:

2 (1) Current campaign finance laws permit candidates to
3 spend unlimited amounts of money raised from private sources;

4 (2) Current campaign finance laws permit certain
5 independent parties to raise and spend unlimited amounts of
6 money to influence the outcome of elections;

7 (3) Over the last decade, fundraising and campaign
8 expenditures in elections for a seat on the Supreme Court of
9 Appeals have dramatically increased in West Virginia;

10 (4) In 2000, candidates running for a seat on the Supreme
11 Court of Appeals raised a total of \$1.4 million;

12 (5) In 2004, candidates running for a seat on the Supreme
13 Court of Appeals raised a total of \$2.8 million;

14 (6) In 2008, candidates running for a seat on the Supreme
15 Court of Appeals raised a total of \$3.3 million;

16 (7) In 2012, candidates running for a seat on the Supreme
17 Court of Appeals raised a total of \$3.7 million.

18 (8) As spending by candidates and independent parties
19 increases, so does the perception that contributors and interested
20 third parties hold too much influence over the judicial process;

21 (9) The detrimental effects of spending large amounts by
22 candidates and independent parties are especially problematic in
23 judicial elections because impartiality is uniquely important to
24 the integrity and credibility of courts;

25 (10) As demonstrated by the 2012 West Virginia Supreme
26 Court of Appeals Public Campaign Financing Pilot Program, an
27 alternative public campaign financing option for candidates
28 running for a seat on the Supreme Court of Appeals will ensure
29 the fairness of democratic elections in this state, protect the
30 Constitutional rights of voters and candidates from the
31 detrimental effects of increasingly large amounts of money being
32 raised and spent to influence the outcome of elections, protect
33 the impartiality and integrity of the judiciary, and strengthen
34 public confidence in the judiciary; and

35 (11) Funding the “West Virginia Supreme Court of Appeals
36 Public Campaign Financing Program” from a wide range of
37 revenue sources furthers important state interests in protecting
38 the integrity of judicial elections and serves to protect the public
39 interest.

§3-12-3. Definitions.

1 As used in this article, the following terms and phrases have
2 the following meanings:

3 (1) “Candidate’s committee” means a political committee
4 established with the approval of or in cooperation with a
5 candidate or a prospective candidate to explore the possibilities
6 of seeking a particular office or to support or aid his or her

7 nomination or election to an office in an election cycle. If a
8 candidate directs or influences the activities of more than one
9 active committee in a current campaign, those committees shall
10 be considered one committee for the purpose of contribution
11 limits.

12 (2) “Certified candidate” means an individual seeking
13 election to the West Virginia Supreme Court of Appeals who has
14 been certified in accordance with section ten of this article as
15 having met all of the requirements for receiving public campaign
16 financing from the fund.

17 (3) “Contribution” means a gift subscription, assessment,
18 payment for services, dues, advance, donation, pledge, contract,
19 agreement, forbearance or promise of money or other tangible
20 thing of value, whether conditional or legally enforceable, or a
21 transfer of money or other tangible thing of value to a person,
22 made for the purpose of influencing the nomination, election or
23 defeat of a candidate. An offer or tender of a contribution is not
24 a contribution if expressly and unconditionally rejected or
25 returned. A contribution does not include volunteer personal
26 services provided without compensation: *Provided*, That a
27 nonmonetary contribution is to be considered at fair market
28 value for reporting requirements and contribution limitations.

29 (4) “Exploratory contribution” means a contribution of no
30 more than \$1,000 made by an individual adult, including a
31 participating candidate and members of his or her immediate
32 family, during the exploratory period but prior to filing the
33 declaration of intent. Exploratory contributions may not exceed
34 \$20,000 in the aggregate.

35 (5) “Exploratory period” means the period during which a
36 participating candidate may raise and spend exploratory
37 contributions to examine his or her chances of election and to
38 qualify for public campaign financing under this article. The
39 exploratory period begins on January 1 the year before the

40 primary in which the candidate may run for Justice of the
41 Supreme Court of Appeals and ends on the last Saturday in
42 January of the election year.

43 (6) “Financial agent” means any individual acting for and by
44 himself or herself, or any two or more individuals acting together
45 or cooperating in a financial way to aid or take part in the
46 nomination or election of any candidate for public office, or to
47 aid or promote the success or defeat of any political party at any
48 election.

49 (7) “Fund” means the Supreme Court of Appeals Public
50 Campaign Financing Fund created by section five of this article.

51 (8) “General election campaign period” means the period
52 beginning the day after the primary election and ending on the
53 day of the general election.

54 (9) “Immediate family” or “immediate family members”
55 means the spouse, parents, step-parents, siblings and children of
56 the participating candidate.

57 (10) “Nonparticipating candidate” means a candidate who is:

58 (A) Seeking election to the Supreme Court of Appeals;

59 (B) Is neither certified nor attempting to be certified to
60 receive public campaign financing from the fund; and

61 (C) Has an opponent who is a participating or certified
62 candidate.

63 (11) “Participating candidate” means a candidate who is
64 seeking election to the Supreme Court of Appeals and is
65 attempting to be certified in accordance with section ten of this
66 article to receive public campaign financing from the fund.

67 (12) “Person” means an individual, partnership, committee,
68 association and any other organization or group of individuals.

69 (13) “Primary election campaign period” means the period
70 beginning on the first day of the primary election filing period,
71 as determined under section seven, article five of this chapter,
72 and ending on the day of the subsequent primary election.

73 (14) “Qualifying contribution” means a contribution
74 received from a West Virginia registered voter of not less than
75 \$1 nor more than \$100 in the form of cash, check or money
76 order, made payable to a participating candidate or the
77 candidate’s committee, or in the form of an electronic payment
78 or debit or credit card payment, received during the qualifying
79 period.

80 (15) “Qualifying period” means the period during which
81 participating candidates may raise and spend qualifying
82 contributions in order to qualify to receive public campaign
83 financing.

84 (A) For candidates seeking nomination on the primary
85 election ballot, the qualifying period begins on September 1
86 preceding the election year and ends on the last Saturday in
87 January of the election year.

88 (B) For candidates, other than those nominated during the
89 primary election, seeking to be placed on the general election
90 ballot, the qualifying period begins on June 1 of the election year
91 and ends on October 1 of the election year.

§3-12-4. Alternative public campaign financing option.

1 This article establishes an alternative public campaign
2 financing option available to candidates for election to the office
3 of Justice of the West Virginia Supreme Court of Appeals.
4 Candidates electing the alternative public campaign financing
5 option shall comply with all other applicable election and
6 campaign laws and rules.

§3-12-6. Sources of revenue for the fund.

1 Revenue from the following sources shall be deposited in the
2 fund:

3 (1) All exploratory and qualifying contributions in excess of
4 the established maximums;

5 (2) Money returned by participating or certified candidates
6 who fail to comply with this article;

7 (3) Unspent or unobligated moneys allotted to certified
8 candidates and remaining unspent or unobligated on the date of
9 the general election for which the money was distributed;

10 (4) If a certified candidate loses, all remaining unspent or
11 unobligated moneys after the primary election;

12 (5) Civil penalties levied by the State Election Commission
13 against candidates for violations of this article;

14 (6) Civil penalties levied by the Secretary of State pursuant
15 to section seven, article eight of this chapter;

16 (7) Voluntary donations made directly to the fund;

17 (8) Any interest income or other return earned on the
18 money's investment;

19 (9) On or before July 1, 2010, and for two successive years
20 thereafter, the State Auditor shall authorize the transfer of the
21 amount of \$1 million from the Purchasing Card Administration
22 Fund established in section ten-d, article three, chapter twelve of
23 this code to the fund created by this article;

24 (10) On or before July 1, 2015, the state Auditor shall
25 authorize the transfer of the amount of \$400,000 from the
26 Purchasing Card Administration Fund established in section

27 ten-d, article three, chapter twelve of this code to the fund
28 created by this article; and,

29 (11) Money appropriated to the fund.

§3-12-7. Declaration of intent.

1 A candidate desiring to receive campaign financing from the
2 fund shall first file a declaration of intent before the end of the
3 qualifying period and prior to collecting any qualifying
4 contributions. The declaration shall be on a form prescribed by
5 the State Election Commission and shall contain a statement that
6 the candidate is qualified to be placed on the ballot, and, if
7 elected, to hold the office sought and has complied with and will
8 continue to comply with all requirements of this article,
9 including contribution and expenditure restrictions. A candidate
10 may not collect exploratory contributions after filing the
11 declaration of intent. Contributions made prior to the filing of
12 the declaration of intent are not qualifying contributions. Any
13 contributions received by a candidate during any precandidacy
14 period which preceded the exploratory period which remain
15 unexpended at the time of the declaration of intent shall be
16 considered exploratory funds and subject to the limits and
17 provisions of section eight of this article.

§3-12-9. Qualifying contributions.

1 (a) A participating candidate or his or her candidate's
2 committee may not accept more than one qualifying contribution
3 from a single individual. A qualifying contribution may not be
4 less than \$1 nor more than \$100. To be considered as a proper
5 qualifying contribution, the qualifying contribution must be
6 made by a registered West Virginia voter. A participating
7 candidate shall collect qualifying contributions which in the
8 aggregate are not less than \$35,000 nor more than \$50,000.
9 Qualifying contributions in excess of \$50,000 shall be sent to the
10 State Election Commission for deposit in the fund.

11 (b) Each qualifying contribution shall be acknowledged by
12 a written receipt that includes:

13 (1) The printed name of the participating candidate on whose
14 behalf the contribution is made and the signature of the person
15 who collected the contribution for the candidate or his or her
16 candidate's committee;

17 (2) For qualifying contributions of \$25 or more, the
18 contributor's signature, printed name, street address, zip code,
19 telephone number, occupation and name of employer; and for
20 qualifying contributions of less than \$25, the contributor's
21 signature, printed name, street address and zip code;

22 (3) A statement above the contributor's signature that:

23 (A) The contributor understands the purpose of the
24 contribution is to assist the participating candidate in obtaining
25 public campaign financing;

26 (B) The contribution was made without coercion;

27 (C) The contributor has not been reimbursed, received or
28 promised anything of value for making the contribution; and

29 (4) One copy of the receipt shall be given to the contributor,
30 one copy shall be retained by the candidate and one copy shall
31 be sent by the candidate to the Secretary of State. A contribution
32 which is not acknowledged by a written receipt in the form
33 required by this subsection is not a qualifying contribution.

34 (c) During the qualifying period, a participating candidate or
35 his or her candidate's committee must obtain at least five
36 hundred qualifying contributions from registered West Virginia
37 voters. A minimum of ten percent of the total number of
38 qualifying contributions received by the candidate must be from
39 each of the state's congressional districts.

40 (d) A participating candidate and each member of the
41 candidate's immediate family who is a registered voter in this
42 state may each make one qualifying contribution. A participating
43 candidate may not use any other personal funds to satisfy the
44 qualifying contributions requirements.

45 (e) A participating candidate may not reimburse, give or
46 promise anything of value in exchange for a qualifying
47 contribution.

48 (f) At the beginning of each month, a participating or
49 certified candidate or his or her financial agent or committee
50 shall report all qualifying contributions, expenditures and
51 obligations along with all receipts for contributions received
52 during the prior month to the Secretary of State. Such reports
53 shall be filed electronically: *Provided*, That a committee may
54 apply for an exemption in case of hardship pursuant to
55 subsection (c) of section five-b, article eight of this chapter. If
56 the candidate decides not to run for office, all unspent or
57 unobligated qualifying contributions shall be sent to the State
58 Election Commission for deposit in the fund. If the candidate
59 decides to run for office as a nonparticipating candidate, the
60 unspent or unobligated qualifying contributions shall be used in
61 accordance with articles eight and twelve of this chapter.

62 (g) All qualifying contributions collected and all
63 expenditures by a participating candidate or his or her committee
64 shall be reported to the Secretary of State no later than two
65 business days after the close of the qualifying period.

66 (h) (1) Individuals are limited to not more than one \$100
67 contribution during the qualifying period.

68 (2) An individual may not contribute more than \$1,000 in the
69 aggregate in exploratory and qualifying contributions.

70 (3) All contributions to candidates participating in the West
71 Virginia Supreme Court of Appeals Public Campaign Financing

72 Program shall be collected by the candidates's designated
73 financial agent.

§3-12-10. Certification of candidates.

1 (a) To be certified, a participating candidate shall apply to
2 the State Election Commission for public campaign financing
3 from the fund and file a sworn statement that he or she has
4 complied and will comply with all requirements of this article
5 throughout the applicable campaign.

6 (b) Upon receipt of a notice from the Secretary of State that
7 a participating candidate has received the required number and
8 amount of qualifying contributions, the State Election
9 Commission shall determine whether the candidate or
10 candidate's committee:

11 (1) Has signed and filed a declaration of intent as required by
12 section seven of this article;

13 (2) Has obtained the required number and amount of
14 qualifying contributions as required by section nine of this
15 article;

16 (3) Has complied with the contribution restrictions of this
17 article;

18 (4) Is eligible, as provided in section nine, article five of this
19 chapter, to appear on the primary or general election ballot; and

20 (5) Has met all other requirements of this article.

21 (c) The State Election Commission shall process
22 applications in the order they are received and shall verify a
23 participating candidate's compliance with the requirements of
24 subsection (b) of this section by using the verification and
25 sampling techniques approved by the State Election
26 Commission.

27 (d) The State Election Commission shall determine whether
28 to certify a participating candidate as eligible to receive public
29 campaign financing no later than three business days after the
30 candidate or the candidate's committee makes his or her final
31 report of qualifying contributions or, if a challenge is filed under
32 subsection (g) of this section, no later than six business days
33 after the candidate or the candidate's committee makes his or her
34 final report of qualifying contributions. A certified candidate
35 shall comply with this article through the general election
36 campaign period.

37 (e) No later than two business days after the State Election
38 Commission certifies that a participating candidate is eligible to
39 receive public campaign financing under this section, the State
40 Election Commission, acting in concert with the State Auditor's
41 office and the State Treasurer's office, shall cause a check to be
42 issued to the candidate's campaign depository account an
43 amount equal to the public campaign financing benefit for which
44 the candidate qualifies under section eleven of this article, minus
45 the candidate's qualifying contributions, and shall notify all
46 other candidates for the same office of its determination.

47 (f) If the candidate desires to receive public financing
48 benefits by electronic transfer, the candidate shall include in his
49 or her application sufficient information and authorization for
50 the State Treasurer to transfer payments to his or her campaign
51 depository account.

52 (g) Any person may challenge the validity of any
53 contribution listed by a participating candidate by filing a written
54 challenge with the State Election Commission setting forth any
55 reason why the contribution should not be accepted as a
56 qualifying contribution. If a contribution is challenged under this
57 subsection, the State Election Commission shall decide the
58 validity of the challenge no later than the end of the next
59 business day after the day that the challenge is filed, unless the
60 State Election Commission determines that the candidate whose

61 contribution is challenged has both a sufficient qualifying
 62 number and amount of qualifying contributions to be certified as
 63 a candidate under this section without considering the challenge.
 64 Within five business days of a challenge, the candidate or
 65 candidate's committee who listed any contribution that is the
 66 subject of a challenge may file a report with the State Election
 67 Commission of an additional contribution collected pursuant to
 68 section nine of this article for consideration as a qualifying
 69 contribution.

70 (h) A candidate's certification and receipt of public
 71 campaign financing may be revoked by the State Election
 72 Commission, if the candidate violates this article. A certified
 73 candidate who violates this article shall repay all moneys
 74 received from the fund to the State Election Commission.

75 (i) The determination of any issue before the State Election
 76 Commission is the final administrative determination. Any
 77 meetings conducted by the State Elections Commission to certify
 78 a candidate's eligibility to receive funds under this article shall
 79 not be subject the public notice and open meeting requirements
 80 of article nine-a, chapter six of this code, but the commission
 81 shall concurrently provide public notice of any decision and
 82 determination it makes which impacts the candidate's eligibility
 83 to receive funds pursuant to this article. Any person adversely
 84 affected by a decision of the State Election Commission under
 85 this article may appeal that decision to the circuit court of
 86 Kanawha County.

87 (j) A candidate may withdraw from being a certified
 88 candidate and become a nonparticipating candidate at any time
 89 with the approval of the State Election Commission. Any
 90 candidate seeking to withdraw shall file a written request with
 91 the State Election Commission, which shall consider requests on
 92 a case-by-case basis. No certified candidate may withdraw until
 93 he or she has repaid all moneys received from the fund:
 94 *Provided, That the State Election Commission may, in*

95 exceptional circumstances, waive the repayment requirement.
96 The State Election Commission may assess a penalty not to
97 exceed \$10,000 against any candidate who withdraws without
98 approval.

**§3-12-11. Schedule and amount of Supreme Court of Appeals
Public Campaign Financing Fund payments.**

1 (a) The State Election Commission, acting in concert with
2 the State Auditor's office and the State Treasurer's office, shall
3 have a check issued within two business days after the date on
4 which the candidate is certified, to make payments from the fund
5 for the 2012 primary election campaign period available to a
6 certified candidate.

7 (1) In a contested primary election, a certified candidate
8 shall receive \$300,000 in campaign financing from the fund,
9 minus the certified candidate's qualifying contributions.

10 (2) In an uncontested primary election, a certified candidate
11 shall receive \$50,000 from the public campaign financing fund,
12 minus the certified candidate's qualifying contributions.

13 (b) Within two business days after the primary election
14 results are certified by the Secretary of State, the State Election
15 Commission, acting in concert with the State Auditor's office
16 and the State Treasurer's office, shall cause a check to be issued
17 to make payments from the fund for the general election
18 campaign period available to a certified candidate.

19 (1) In a contested general election, a certified candidate
20 shall receive from the fund an amount not to exceed \$525,000.

21 (2) In an uncontested general election, a certified candidate
22 shall receive \$35,000 from the public campaign financing fund.

23 (c) The State Election Commission shall authorize the
24 distribution of campaign financing moneys to certified

25 candidates in equal amounts. The commission shall propose a
26 legislative rule on distribution of funds.

27 (d) The State Election Commission may not authorize or
28 direct the distribution of moneys to certified candidates in excess
29 of the total amount of money deposited in the fund pursuant to
30 section six of this article. If the commission determines that the
31 money in the fund is insufficient to totally fund all certified
32 candidates, the commission shall authorize the distribution of the
33 remaining money proportionally, according to each candidate's
34 eligibility for funding. Each candidate may raise additional
35 money in the same manner as a nonparticipating candidate for
36 the same office up to the unfunded amount of the candidate's
37 eligible funding.

§3-12-13. Reporting requirements.

1 (a) Participating candidates and certified candidates shall
2 comply with this section in addition to any other reporting
3 required by this chapter.

4 (b) During the exploratory and qualifying periods, a
5 participating candidate or his or her financial agent shall submit,
6 on the first of each month, a report of all exploratory and
7 qualifying contributions along with their receipts and an
8 accounting of all expenditures and obligations received during
9 the immediately preceding month. The reports shall be on forms
10 or in a format prescribed by the Secretary of State. Such reports
11 shall be filed electronically: *Provided*, That a committee may
12 apply for an exemption, in case of hardship, pursuant to
13 subsection (c) of section five-b, article eight of this chapter.

14 (c) No later than two business days after the close of the
15 qualifying period, a participating candidate or his or her financial
16 agent shall report to the Secretary of State on appropriate forms
17 a summary of:

18 (1) All exploratory contributions received and funds
19 expended or obligated during the exploratory period together

20 with copies of any receipts not previously submitted for
21 exploratory contributions; and

22 (2) All qualifying contributions received and funds expended
23 or obligated during the qualifying period together with copies of
24 any receipts not previously submitted for qualifying
25 contributions.

26 (d) A certified candidate or his or her financial agent shall
27 file periodic financial statements in accordance with section five,
28 article eight of this chapter, detailing all funds received,
29 expended or obligated during the specified periods. The reports
30 shall be on forms approved by the Secretary of State.

§3-12-14. Duties of the State Election Commission; Secretary of State.

1 (a) In addition to its other duties, the State Election
2 Commission shall carry out the duties of this article and
3 complete the following as applicable:

4 (1) Prescribe forms for reports, statements, notices and other
5 documents required by this article;

6 (2) Make an annual report to the Legislature accounting for
7 moneys in the fund, describing the State Election Commission's
8 activities and listing any recommendations for changes of law,
9 administration or funding amounts;

10 (3) Propose emergency and legislative rules for legislative
11 approval, in accordance with article three, chapter twenty-nine-a
12 of this code, as may be necessary for the proper administration
13 of this article;

14 (4) Enforce this article to ensure that moneys from the fund
15 are placed in candidate campaign accounts and spent as specified
16 in this article;

17 (5) Monitor reports filed pursuant to this article and the
18 financial records of candidates to ensure that qualified
19 candidates receive funds promptly and to ensure that moneys
20 required by this article to be paid to the fund are deposited in the
21 fund;

22 (6) Cause an audit of the fund to be conducted by
23 independent certified public accountants ninety days after a
24 general election. The State Election Commission shall cooperate
25 with the audit, provide all necessary documentation and financial
26 records to the auditor and maintain a record of all information
27 supplied by the audit;

28 (7) In consultation with the State Treasurer and the State
29 Auditor, develop a rapid, reliable method of conveying funds to
30 certified candidates. In all cases, the commission shall distribute
31 funds to certified candidates in a manner that is expeditious,
32 ensures accountability and safeguards the integrity of the fund;

33 (8) Regularly monitor the receipts, disbursements,
34 obligations and balance in the fund to determine whether the
35 fund will have sufficient moneys to meet its obligations and
36 sufficient moneys available for disbursement during the primary
37 and general election campaign period; and

38 (9) Transfer a portion of moneys maintained in the fund to
39 the West Virginia Investment Management Board for their
40 supervised investment, after consultation with the State
41 Treasurer, the State Auditor and the West Virginia Investment
42 Management Board.

43 (b) In addition to his or her other duties, the Secretary of
44 State shall carry out the duties of this article and complete the
45 following as applicable:

46 (1) Prescribe forms for reports, statements, notices and other
47 documents required by this article;

48 (2) Prepare and publish information about this article and
49 provide it to potential candidates and citizens of this state;

50 (3) Prepare and publish instructions setting forth methods of
51 bookkeeping and preservation of records to facilitate compliance
52 with this article and to explain the duties of candidates and
53 others participating in elections under this article;

54 (4) Propose emergency and legislative rules for legislative
55 approval in accordance with article three, chapter twenty-nine-a
56 of this code as may be necessary for the proper administration of
57 this article;

58 (5) Enforce this article to ensure that moneys from the fund
59 are placed in candidate campaign accounts and spent as specified
60 in this article;

61 (6) Monitor reports filed pursuant to this article and the
62 financial records of candidates to ensure that qualified
63 candidates receive funds promptly and to ensure that moneys
64 required by this article to be paid to the fund are deposited in the
65 fund;

66 (7) Ensure public access to the campaign finance reports
67 required pursuant to this article, and whenever possible, use
68 electronic means for the reporting, storing and display of the
69 information; and

70 (8) Prepare a voters' guide for the general public listing the
71 names of each candidate seeking election to the Supreme Court
72 of Appeals. Both certified and nonparticipating candidates shall
73 be invited by the State Election Commission to submit a
74 statement, not to exceed five hundred words in length, for
75 inclusion in the guide. The guide shall identify the candidates
76 that are certified candidates and the candidates that are
77 nonparticipating candidates. Copies of the guide shall be posted
78 on the website of the Secretary of State, as soon as may be
79 practical.

80 (c) To fulfill their responsibilities under this article, the State
81 Election Commission and the Secretary of State may subpoena
82 witnesses, compel their attendance and testimony, administer
83 oaths and affirmations, take evidence and require, by subpoena,
84 the production of any books, papers, records or other items
85 material to the performance of their duties or the exercise of
86 their powers.

87 (d) The State Election Commission may also propose and
88 adopt procedural rules to carry out the purposes and provisions
89 of this article and to govern procedures of the State Election
90 Commission as it relates to the requirements of this article.

§3-12-16. Civil penalties.

1 (a) If a participating or certified candidate or his or her
2 committee or financial agent unintentionally accepts
3 contributions from a private source in violation of this article or
4 spends or obligates to spend more than the amount of public
5 financing money he or she is eligible to receive from the fund
6 pursuant to section eleven of this article, the State Election
7 Commission may order the candidate to pay to the State Election
8 Commission an amount equal to the amount of the contribution,
9 expenditure or obligation.

10 (b) If a participating or certified candidate or his or her
11 committee or financial agent intentionally accepts contributions
12 from a private source in violation of this article or spends or
13 obligates more than the amount of public campaign financing he
14 or she is eligible to receive from the fund, the State Election
15 Commission shall order the candidate to pay to the State
16 Election Commission an amount equal to ten times the amount
17 of the contribution, expenditure or obligation. The candidate
18 shall pay the civil penalty authorized under this subsection
19 within seven days of receipt of written notice from the State
20 Election Commission of the imposition of the penalty.

21 (c) If a participating or certified candidate fails to pay any
22 moneys required to be paid to the State Election Commission or
23 returned to the fund under this article, the State Election
24 Commission may order the candidate to pay an amount equal to
25 three times the amount that should have been paid to the State
26 Election Commission or returned to the fund.

27 (d) In addition to any other penalties imposed by law, the
28 State Election Commission may impose a civil penalty for a
29 violation by or on behalf of any candidate of any reporting
30 requirement imposed by this article in the amount of \$100 a day.

31 (e) All penalties collected by the State Election Commission
32 pursuant to this section shall be deposited into the fund. The
33 candidate and the candidate's campaign account are jointly and
34 severally responsible for the payment of any penalty imposed
35 pursuant to this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2013.

Governor

