

FILED

2014 MAR 28 P 5:04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4298

(By Delegates Manchin and Morgan)



Passed March 8, 2014

In effect ninety days from passage.

HB 4298

FILED

2014 MAR 28 P 5:05

**OFFICE WEST VIRGINIA
SECRETARY OF STATE**

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 4298

(BY DELEGATES MANCHIN AND MORGAN)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §6B-2-1 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Ethics Commission; continuing the Ethics Commission; changing the requirements of who can be a member of the Ethics Commission; reducing the number of members on the Ethics Commission to nine; and changing the composition of the membership.

Be it enacted by the Legislature of West Virginia:

That §6B-2-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

20
ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION; POWERS AND DUTIES; DISCLOSURE OF FINANCIAL INTEREST BY PUBLIC OFFICIALS AND EMPLOYEES; APPEARANCES BEFORE PUBLIC AGENCIES; CODE OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES.

§6B-2-1. West Virginia Ethics Commission created; members; appointment, term of office and oath; compensation and reimbursement for expenses; meetings and quorum.

1 (a) The West Virginia Ethics Commission is continued. The
2 members of the commission shall be appointed by the Governor
3 with the advice and consent of the Senate.

4 (b) No person may be appointed to the commission or
5 continue to serve as a member of the commission who:

6 (1) Holds elected or appointed office under the government
7 of the United States, the State of West Virginia or any of its
8 political subdivisions;

9 (2) Is a candidate for any political office;

10 (3) Is otherwise subject to the provisions of this chapter
11 other than by reason of his or her appointment to or service on
12 the commission; or

13 (4) Holds any political party office or participates in a
14 campaign relating to a referendum or other ballot issue:
15 *Provided*, That a member may contribute to a political campaign.

16 (c) Commencing July 1, 2014, the Ethics Commission shall
17 consist of the following nine members, appointed with staggered
18 terms:

19 (1) One member who served as a member of the West
20 Virginia Legislature;

21 (2) One member who served as an elected or appointed
22 county official;

23 (3) One member who served as an elected or appointed
24 municipal official;

25 (4) One member who served as an elected county school
26 board member;

27 (5) One member from a rural area; and

28 (6) Four citizen members.

29 (d) Any Commission member in office on June 30, 2014,
30 who meets one of the categories for membership set out in
31 subsection (c) of this section, may be reappointed. No more than
32 five members of the Commission shall be of the same political
33 party and no more than four members shall be from the same
34 congressional district.

35 (e) After the initial staggered terms, the term of office for a
36 Commission member is five years. No member shall serve more
37 than two consecutive full or partial terms. No person may be
38 reappointed to the commission until at least two years have
39 elapsed after the completion of the second consecutive term. A
40 member may continue to serve until a successor has been
41 appointed and qualified.

42 (f) All appointments shall be made by the Governor in a
43 timely manner so as not to create a vacancy for longer than sixty
44 days.

45 (g) Each member must be a resident of this state during the
46 appointment term.

47 (h) Five members of the commission constitutes a quorum.

48 (i) Each member of the commission shall take and subscribe
49 to the oath or affirmation required pursuant to section five,
50 article IV of the Constitution of West Virginia.

51 (j) A member may be removed by the Governor for
52 substantial neglect of duty, gross misconduct in office or a

53 violation of this chapter, after written notice and opportunity for
54 reply.

55 (k) The commission, as appointed on July 1, 2014, shall
56 meet before August 1, 2014, at a time and place to be determined
57 by the Governor, who shall designate a member to preside at that
58 meeting until a chairperson is elected. At the first meeting, the
59 commission shall elect a chairperson and any other officers as
60 are necessary. The commission shall within ninety days after the
61 first meeting adopt rules for its procedures. The commission may
62 use the rules in place on July 1, 2014, until those rules are
63 amended or revoked.

64 (l) Members of the commission shall receive the same
65 compensation and expense reimbursement as is paid to members
66 of the Legislature for their interim duties as recommended by the
67 Citizens Legislative Compensation Commission and authorized
68 by law for each day or portion thereof engaged in the discharge
69 of official duties: *Provided*, That to be eligible for compensation
70 and expense reimbursement, the member must participate in a
71 meeting or adjudicatory session: *Provided, however*, That the
72 member is not eligible for expense reimbursement if he or she
73 does not attend a meeting or adjudicatory session in person.

74 (m) The commission shall appoint an executive director to
75 assist the commission in carrying out its functions in accordance
76 with commission rules and with applicable law. The executive
77 director shall be paid a salary fixed by the commission or as
78 otherwise provided by law. The commission shall appoint and
79 discharge counsel and employees and shall fix the compensation
80 of employees and prescribe their duties. Counsel to the
81 commission shall advise the commission on all legal matters and
82 on the instruction of the commission may commence appropriate
83 civil actions: *Provided*, That no counsel shall both advise the
84 commission and act in a representative capacity in any
85 proceeding.

86 (n) The commission may delegate authority to the
87 chairperson or the executive director to act in the name of the
88 commission between meetings of the commission, except that
89 the commission shall not delegate the power to hold hearings
90 and determine violations to the chairperson or the executive
91 director.

92 (o) The principal office of the commission shall be in the
93 seat of government, but it or its designated subcommittees may
94 meet and exercise its power at any other place in the state.
95 Meetings of the commission shall be public unless:

96 (1) They are required to be private by the provisions of this
97 chapter relating to confidentiality; or

98 (2) They involve discussions of commission personnel,
99 planned or ongoing litigation, and planned or ongoing
100 investigations.

101 (p) Meetings of the commission shall be upon the call of the
102 chairperson and may be conducted by telephonic or other
103 electronic conferencing means: *Provided*, That telephone or
104 other electronic conferencing, and voting are not permitted when
105 the commission is acting as a hearing board under this article, or
106 when the Probable Cause Review Board meets to receive an oral
107 response as authorized this article. Members shall be given
108 notice of meetings held by telephone or other electronic
109 conferencing in the same manner as meetings at which the
110 members are required to attend in person. Telephone or other
111 electronic conferences shall be electronically recorded and the
112 recordings shall be retained by the commission in accordance
113 with its record retention policy.

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

Danny Wells
Chairman, House Committee

[Signature]
Member ~~Chairman, Senate Committee~~

Originating in the House.

In effect ninety days from passage.

Bugoy M. Sano
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

[Signature]
President of the Senate

The within *is approved* this the *28th*
day of *March*, 2014.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:45 AM