WEST VIRGINIA CODE: §61-10-15

§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor, or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $2,500 and the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

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(2) Is not an owner, a shareholder, a director, or an officer of a private entity under the contract;

(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

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(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under §7-12-1 *et seq*. of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by §7-12-5(a) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by §7-12-5(a) of this code.

(n) It is not a violation of subsection (a) of this section for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal, or teacher of public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence, or control in the award or letting of the contract if:

(1) It is not a contract for services;

(2) The contract has been put out for competitive bid, and the contract is awarded based on lowest cost;

(3) If the party to the contract is in a voting or other decision-making position as to the contract, he or she recuses himself or herself from voting or decision-making; and

(4) The party to the contract has previously obtained a written advisory opinion from the

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West Virginia Ethics Commission permitting the employee to have a pecuniary interest in the contract.

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