WEST VIRGINIA CODE CHAPTER 6B ARTICLE 1

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§6B-1-1. Short title.

This chapter shall be known as the "West Virginia Governmental Ethics Act."

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§6B-1-2. Legislative findings, purpose, declaration and intent.

(a) The Legislature hereby finds that the holding of a public office or public employment is a public trust. Independence and impartiality of public officials and public employees are essential for the maintenance of the confidence of our citizens in the operation of a democratic government. The decisions and actions of public officials and public employees must be made free from undue influence, favoritism or threat, at every level of government. Public officials and public employees who exercise the powers of their office or employment for personal gain beyond the lawful emoluments of their position or who seek to benefit narrow economic or political interests at the expense of the public at large undermine public confidence in the integrity of a democratic government.

(b) It is the purpose of this chapter to maintain confidence in the integrity and impartiality of the governmental process in the State of West Virginia and its political subdivisions and to aid public officials and public employees in the exercise of their official duties and employment; to define and establish minimum ethical standards for elected and appointed public officials and public employees; to eliminate actual conflicts of interest; to provide a means to define ethical standards; to provide a means of investigating and resolving ethical violations; and to provide administrative and criminal penalties for specific ethical violations herein found to be unlawful.

(c) The Legislature finds that the state government and its many public bodies and local governments have many part-time public officials and public employees serving in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service and do not, in every instance, disqualify a public official or public employee from the responsibility of voting or deciding a matter; however, when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

(d) It is declared that high moral and ethical standards among public officials and public employees are essential to the conduct of free government; that the Legislature believes that a code of ethics for the guidance of public officials and public employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their public officials and public employees.

(e) It is the intent of the Legislature that in its operations the West Virginia Ethics Commission created under this chapter shall protect to the fullest extent possible the rights of individuals affected.

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§6B-1-3. Definitions.

As used in this chapter, unless the context in which used clearly requires otherwise:

(a) "Review Board" means the Probable Cause Review Board created by §6B-2-2a of this code.

(b) "Business" means any entity through which business for-profit is conducted including a corporation, partnership, proprietorship, franchise, association, organization, or self-employed individual.

(c) "Compensation" means money, thing of value, or financial benefit. The term "compensation" does not include reimbursement for actual reasonable and necessary expenses incurred in the performance of one's official duties.

(d) "Employee" means any person in the service of another under any contract of hire, whether express or implied, oral, or written, where the employer or an agent of the employer or a public official has the right or power to control and direct such person in the material details of how work is to be performed and who is not responsible for the making of policy nor for recommending official action.

(e) "Ethics Commission" or "commission" means the West Virginia Ethics Commission.

(f) "Immediate family", with respect to an individual, means a spouse with whom the individual is living as husband and wife and any dependent child or children, dependent grandchild or grandchildren, and dependent parent or parents.

(g) "Ministerial functions" means actions or functions performed by an individual under a given state of facts in a prescribed manner in accordance with a mandate of legal authority, without regard to, or without the exercise of, the individual's own judgment as to the propriety of the action being taken.

(h) "Person" means an individual, corporation, business entity, labor union, association, firm, partnership, limited partnership, committee, club, or other organization or group of persons, irrespective of the denomination given such organization or group.

(i) "Political contribution" means and has the same definition as is given that term under the provisions of §3-8-1 et seq. of this code.

(j) "Public employee" means any full-time or part-time employee of any state, county or municipal governmental body or any political subdivision thereof, including county school boards.

(k) "Public official" means any person who is elected to, appointed to, or given the authority to act in any state, county, or municipal office or position, whether compensated or not, and

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who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating, or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person. The term "public official" includes a public servant volunteer.

(l) "Public servant volunteer" means any person who, without compensation, performs services on behalf of a public official and who is granted or vested with powers, privileges, or authorities ordinarily reserved to public officials.

(m) "Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law.

(n) "Respondent" means a person who is the subject of an investigation by the commission or against whom a complaint has been filed with the commission.

(o) "Thing of value", "other thing of value," or "anything of value" means and includes: (1) Money, bank bills, or notes, United States treasury notes and other bills, bonds or notes issued by lawful authority and intended to pass and circulate as money; (2) goods and chattels; (3) promissory notes, bills of exchange, orders, drafts, warrants, checks, bonds given for the payment of money, or the forbearance of money due or owing; (4) receipts given for the payment of money or other property; (5) any right or chose in action; (6) chattels real or personal or things which savor of realty and are, at the time taken, a part of a freehold, whether they are of the substance or produce thereof or affixed thereto, although there may be no interval between the severing and the taking away thereof; (7) any interest in realty, including, but not limited to, fee simple estates, life estates, estates for a term or period of time, joint tenancies, cotenancies, tenancies in common, partial interests, present or future interests, contingent or vested interests, beneficial interests, leasehold interests, or any other interest or interests in realty of whatsoever nature; (8) any promise of employment, present or future; (9) donation or gift; (10) rendering of services or the payment thereof; (11) any advance or pledge; (12) a promise of present or future interest in any business or contract or other agreement; or (13) every other thing or item, whether tangible or intangible, having economic worth. "Thing of value", "other thing of value" or "anything of value" shall not include anything which is de minimis in nature nor a lawful political contribution reported as required by law.

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§6B-1-4. Remedies and penalties in addition to other applicable remedies and penalties.

The provisions of this chapter shall be in addition to any other applicable provisions of this code and except for the immunity provided by section three, article two of this chapter shall not be deemed to be in derogation of or as a substitution for any other provisions of this code, including, but not limited to, article five-a, chapter sixty-one of this code and except for the immunity provided by section three, article two of this chapter the remedies and penalties provided in this chapter shall be in addition to any other remedies or penalties which may be applicable to any circumstances relevant to both.

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§6B-1-5. Severability.

The provisions of subsection (cc), section ten, article two, chapter two of this code shall apply to the provisions of this chapter to the same extent as if the same were set forth in extenso herein.

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§6B-1-6. Deposit of funds.

All moneys collected pursuant to this chapter except fines imposed pursuant to paragraph (D), subdivision (1), subsection (r), section four, article two of this chapter shall be deposited in the General Revenue Fund in the state Treasury pursuant to the provisions of section two, article two, chapter twelve of this code.

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