WEST VIRGINIA CODE CHAPTER 6B ARTICLE 3

WV Legislature

§6B-3-1. Definitions.

As used in this article, unless the context in which used clearly indicates otherwise:

(1) "Compensation" means money or any other thing of value received or to be received by a lobbyist from an employer for services rendered.

(2) "Employer" or "lobbyist's employer" means any person who employs or retains a lobbyist.

(3) "Expenditure" means payment, distribution, loan, advance deposit, reimbursement, or gift of money, real or personal property or any other thing of value; or a contract, promise or agreement, whether or not legally enforceable.

(4) "Government officer or employee" means a member of the Legislature, a legislative employee, the Governor and other members of the board of Public Works, heads of executive departments and any other public officer or public employee under the legislative or executive branch of state government who is empowered or authorized to make policy and perform nonministerial functions. In the case of elected offices included herein, the term "government officer or employee" includes candidates who have been elected but who have not yet assumed office.

(5) "Legislation" means bills, resolutions, motions, amendments, nominations and other matters pending or proposed in either house of the Legislature and includes any other matters that may be the subject of action by either house or any committee of the Legislature and all bills or resolutions that, having passed both houses, are pending approval or veto by the Governor.

(6) "Lobbying" or "lobbying activity" means the act of communicating with a government officer or employee to promote, advocate or oppose or otherwise attempt to influence:

(i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this state; or

(ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee or other delegated legislative or quasilegislative action to be taken or withheld by any executive department.

(7) "Lobbying firm" means any business entity, including an individual contract lobbyist, which meets either of the following criteria:

(A) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of lobbying on behalf of any other person, and any partner, owner, officer or employee of the business entity.

(B) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elected

WV Legislature

state official, agency official or legislative official for the purpose of lobbying on behalf of any other person.

(8)(A) "Lobbyist" means any individual employed by a lobbying firm or who is otherwise employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly or through his or her agents with any elective state official, agency official or legislative official for the purpose of promoting, advocating, opposing or otherwise attempting to influence:

(i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this state; or

(ii) The adoption or rejection of any rule, legislative rule, standard, rate, fee or other delegated legislative or quasilegislative action to be taken or withheld by any executive department.

(B) The term "lobbyist" does not include the following persons, who are exempt from the registration and reporting requirements set forth in this article, unless they engage in activities which would otherwise subject them to the registration and reporting requirements:

(i) Persons who limit their lobbying activities to appearing before public sessions of committees of the Legislature, or public hearings of state agencies, are exempt.

(ii) Persons who limit their lobbying activities to attending receptions, dinners, parties or other group functions and make no expenditure in connection with such lobbying are exempt.

(iii) Persons who engage in news or feature reporting activities and editorial comment as working members of the press, radio or television and persons who publish or disseminate such news, features or editorial comment through a newspaper, book, regularly published periodical, radio station or television station are exempt.

(iv) Persons who lobby without compensation or other consideration, other than reimbursement for reasonable travel expenses, for acting as lobbyists, who are not employed by a lobbying firm or lobbyist employer, and whose total expenditures in connection with lobbying activities do not exceed $150 during any calendar year, are exempt. The exemptions contained in this subparagraph and in subparagraph (ii) are intended to permit and encourage citizens of this state to exercise their Constitutional rights to assemble in a peaceable manner, consult for the common good, instruct their representatives, and apply for a redress of grievances. Accordingly, such persons may lobby without incurring any registration or reporting obligation under this article. Any person exempt under this subparagraph or subparagraph (ii) may at his or her option register and report under this article.

WV Legislature

(v) Persons who lobby on behalf of a nonprofit organization with regard to legislation, without compensation, and who restrict their lobbying activities to no more than twenty days or parts thereof during any regular session of the Legislature, are exempt. The Commission may promulgate a legislative rule to require registration and reporting by persons who would otherwise be exempt under this subparagraph, if it determines that such rule is necessary to prevent frustration of the purposes of this article. Any person exempt under this subparagraph may, at his or her option, register and report under this article.

(vi) The Governor, members of the Governor's staff, members of the board of Public Works, officers and employees of the executive branch who communicate with a member of the Legislature on the request of that member, or who communicate with the Legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or which are made in the proper performance of their official duties, are exempt.

(vii) Members of the Legislature are exempt.

(viii) Persons employed by the Legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties are exempt.

(ix) Persons rendering professional services in drafting proposed legislation or in advising or rendering opinions to clients as to the construction and effect of proposed or pending legislation are exempt.

(9) "Person" means any individual, partnership, trust, estate, business trust, association or corporation; any department, commission, board, publicly supported college or university, division, institution, bureau or any other instrumentality of the state; or any county, municipal corporation, school district or any other political subdivision of the state.

WV Legislature

§6B-3-2. Registration of lobbyists.

(a) Before engaging in any lobbying activity, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register with the Ethics Commission by filing a lobbyist registration statement. The registration statement shall contain information and be in a form prescribed by the Ethics Commission by legislative rule, including, but not limited to, the following information:

(1) The registrant's name, business address, telephone numbers and any temporary residential and business addresses and telephone numbers used or to be used by the registrant while lobbying during a legislative session;

(2) The name, address and occupation or business of the registrant's employer;

(3) A statement as to whether the registrant is employed or retained by his or her employer solely as a lobbyist or is a regular employee performing services for the employer which include, but are not limited to, lobbying;

(4) A statement as to whether the registrant is employed or retained by his or her employer under any agreement, arrangement or understanding according to which the registrant's compensation, or any portion of the registrant's compensation, is or will be contingent upon the success of his or her lobbying activity;

(5) The general subject or subjects, if known, on which the registrant will lobby or employ some other person to lobby in a manner which requires registration under this article; and

(6) An appended written authorization from each of the lobbyist's employers confirming the lobbyist's employment and the subjects on which the employer is to be represented.

(b) Any lobbyist who receives or is to receive compensation from more than one person for services as a lobbyist shall file a separate notice of representation with respect to each person compensating him or her for services performed as a lobbyist. When a lobbyist whose fee for lobbying with respect to the same subject is to be paid or contributed by more than one person, then the lobbyist may file a single statement, in which he or she shall detail the name, business address and occupation of each person paying or contributing to the fee.

(c) Whenever a change, modification or termination of the lobbyist's employment occurs, the lobbyist shall, within one week of the change, modification or termination, furnish full information regarding the change, modification or termination by filing with the commission an amended registration statement.

(d) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on the Monday preceding the second Wednesday in January of each odd-numbered year and failure to do so terminates his or her authorization to lobby. Until the registration is renewed, the person may not engage in lobbying activities unless he or she is otherwise exempt under paragraph (B), subdivision (7), section one of this article.

WV Legislature

(e) The following public officers or employees may not, during or up to one year after the termination of their public employment or service, be allowed to register as lobbyists:

(1) Members of the Legislature;

(2) Members of the Executive Department as referenced in article VII, section one of the Constitution of West Virginia;

(3) Will and pleasure professional employees of the Legislature under the direct supervision of a member of the Legislature;

(4) Will and pleasure professional employees of members of the Executive Department under the direct supervision of the Executive Department officer and who regularly, personally and substantially participates in a decision-making or advisory capacity regarding agency or department policy;

(5) Members of the Supreme Court of Appeals;

(6) Any department secretary of an executive branch department created by the provisions of section two, article one, chapter five-f of this code; and

(7) Heads of any state departments or agencies.

WV Legislature

§6B-3-3. Photograph and information publication.

Each lobbyist shall, at the time he or she registers, submit to the commission a recent photograph of the lobbyist of a size and format as determined by the commission, together with the name of the lobbyist's employer, a brief biographical description, and any other information the lobbyist may wish to submit, not to exceed 50 words in length. The photograph and information shall be made available to the public on the commission’s website in a printable and electronically searchable format.

WV Legislature

§6B-3-3a. Registration fees.

(a) Each lobbyist shall, at the time he or she registers, pay the Commission a base registration fee of $100, plus $100 for each employer represented, to be filed with the initial registration statement and with each new registration statement filed by the lobbyist in subsequent odd numbered years. Whenever a lobbyist modifies his or her registration to add additional employers, an additional registration fee of $100 for each additional employer represented shall be paid to the Commission.

(b) All fees authorized and collected pursuant to this article shall be paid to the Ethics Commission and thereafter deposited pursuant to section six, article one of this chapter.

WV Legislature

§6B-3-3b. Conflict of interest.

A lobbyist or a lobbyist's immediate family member may not participate in any decision as a member of a state or county board, council, commission or public service district if the lobbyist may receive direct, personal economic or pecuniary benefit from a decision of that state or county board, council, commission or public service district. The lobbyist's economic or pecuniary benefit must affect him or her directly and not merely as a member of a class.

WV Legislature

§6B-3-3c. Lobbyist training course.

The commission shall provide a training course for registered lobbyists and prospective lobbyists at least twice each year regarding the provisions of the ethics code relevant to lobbyists. One such course shall be conducted during the month of January. In addition to the registration fees authorized in section three-a of this article, the commission may collect a reasonable fee established by legislative rule authorized pursuant to article three, chapter twenty-nine-a of this code from those attending lobbyist training, which is to be collected by the Ethics Commission and deposited pursuant to section six, article one of this chapter. To maintain registration and engage in lobbying activities, a lobbyist must complete one such training course during each two-year registration cycle as described in section three-a of this article: Provided, That a lobbyist must attend such training course prior to engaging in lobbying activities.

WV Legislature

§6B-3-4. Reporting by lobbyists.

(a) A registered lobbyist shall file with the commission reports of his or her lobbying activities, signed by the lobbyist. The reports shall be filed three times a year as follows:

(1) On or before May 15, a lobbyist shall report all lobbying activities in which he or she engaged from January 1 through April 30.

(2) On or before September 15, a lobbyist shall report all lobbying activities in which he or she engaged from May 1 through August 31;

(3) On or before January 15, a lobbyist shall report all lobbying activities in which he or she engaged from September 1 through December 31.

(b) If the date on which a lobbyist expenditure report is due falls on a Saturday, Sunday or legal holiday, the report will be considered timely filed if it is postmarked not later than the next business day. If a registered lobbyist files a late report, the lobbyist shall pay the commission a fee of $10 for each late day, not to exceed a total of $250. If a registered lobbyist fails to file a report or to pay the required fee for filing an untimely report, the commission may, after written notice sent by certified mail, return receipt requested, suspend the lobbyist's privileges as a registered lobbyist until the lobbyist has satisfactorily complied with all reporting requirements and paid the required fee.

(c) (1) Except as otherwise provided in this section, each report filed by a lobbyist shall show the total amount of all expenditures for lobbying activities made or incurred by on behalf of the lobbyist during the period covered by the report. The report shall also show subtotals segregated according to financial category, including meals and beverages; living accommodations; advertising; travel; contributions; gifts to public officials or employees or to members of the immediate family of a public official or employee; and other expenses or services.

(2) Lobbyists are not required to report the following:

(A) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(B) Any expenses incurred for the lobbyist's own living accommodations;

(C) Any expenses incurred for the lobbyist's own travel to and from public meetings or hearings of the legislative and executive branches; or

(D) Any expenses incurred for telephone and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(d) If a lobbyist is employed by more than one employer, the report shall show the proportionate amount of the expenditures in each category incurred on behalf of each of his or her employers.

WV Legislature

(e) The report shall describe the subject matter of the lobbying activities in which the lobbyist has been engaged during the reporting period.

(f) If, during the period covered by the report, the lobbyist made expenditures or expenditures were made or incurred on behalf of the lobbyist in the reporting categories of meals and beverages, living accommodations, travel, gifts or other expenditures, other than for those expenditures governed by subsection (g) of this section, the lobbyist shall report the name of the public official or employee to whom or on whose behalf the expenditures were made, the total amount of the expenditures, and the subject matter of the lobbying activity, if any: Provided, That a registered lobbyist who entertains more than one public official or public employee at a time with meals and beverages complies with the provisions of this section if he or she reports the names of the public officials or public employees entertained and the total amount expended for meals and beverages for all of the public officials or public employees entertained: Provided, however, That where several lobbyists join in entertaining one or more public officials or public employees at a time with meals and beverages, each lobbyist complies with the provisions of this section by reporting the names of the public officials or public employees entertained and his or her proportionate share of the total amount expended for meals and beverages for all of the public officials or public employees entertained. Under this subsection, no portion of the amount of an expenditure for a dinner, party or other function sponsored by a lobbyist's employer need be attributed to a particular public official or employee who attends the function if the sponsor has invited to the function all the members of: (1) The Legislature; (2) either house of the Legislature; (3) a standing or select committee of either house; or (4) a joint committee of the two houses of the Legislature. However, the amount spent for the function shall be added to other expenditures for the purpose of determining the total amount of expenditures reported under subdivision (1), subsection (c) of this section: Provided further, That if the expenditure is for a function to which the entire membership of the Legislature has been invited, the lobbyist need only report that fact, the total amount of the expenditure and the subject matter of the lobbying activity.

(g) If, during the period covered by the report, the lobbyist made expenditures in the reporting categories of meals and beverages, lodging, travel, gifts and scheduled entertainment for or on behalf of a particular public official or public employee in return for the participation of the public official or employee in a panel or speaking engagement at a meeting, the lobbyist shall report the name of the public official or employee to whom or on whose behalf the expenditures were made and the total amount of the expenditures.

WV Legislature

§6B-3-5. Grass roots lobbying campaigns.

(1) Any person who has made expenditures, not required to be reported under other sections of this chapter, exceeding $5,000 in the aggregate within any three-month period or exceeding $1,000 in the aggregate within any one-month period in presenting a program addressed to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation, shall be required to register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within 30 days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the Ethics Commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing $1,000 or more made for the purpose of furthering the campaign and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign, which totals shall be segregated according to financial category, including, but not limited to, the following: Advertising, segregated by media, and, in the case of large expenditures (as provided by legislative rule of the commission), by outlet; contributions; entertainment, including meals and beverages; office expenses, including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount thereof paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file reports with the commission, which reports shall be filed for the same time periods required for the filing of lobbyists' reports under the provisions of §6B-3-4 of this code.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report, which notice shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

WV Legislature

§6B-3-6. Employment of unregistered persons.

It shall be a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon condition that such person register as a lobbyist as provided by this chapter, and such person does in fact so register as soon as practicable.

WV Legislature

§6B-3-7. Duties of lobbyists.

A person required to register as a lobbyist under this article also has the following obligations, the violation of which constitutes cause for revocation of his or her registration and termination of his or her lobbying privileges and may subject the person, and the person's employer, if employer aids, abets, ratifies or confirms the violation, to other civil liabilities as provided by this chapter.

(1) Any person required to register as a lobbyist shall obtain, preserve and make available for inspection by the Commission at any time all accounts, bills, receipts, books, papers and documents necessary to substantiate the financial reports required to be made under this article for a period of at least two years from the date of the filing of the statement to which those items relate: Provided, That if a lobbyist is required under the terms of his or her employment contract to turn any records over to his or her employer, responsibility for the preservation of the records under this subsection shall rest with the employer.

(2) In addition, a person required to register as a lobbyist may not:

(A) Engage in any lobbying activity before registering as a lobbyist;

(B) Knowingly deceive or attempt to deceive any government officer or employee as to any fact pertaining to a matter which is the subject of lobbying activity;

(C) Cause or influence the introduction of any legislation for the purpose of thereafter being employed to secure its defeat;

(D) Exercise any undue influence, extortion or unlawful retaliation upon any government officer or employee by reason of the government officer or employee's position with respect to, or his or her vote upon, any matter which is the subject of lobbying activity;

(E) Exercise undue influence upon any legislator or other privately employed government officer or employee through communications with the person's employer;

(F) Give a gift to any government officer or employee in excess of or in violation of any limitations on gifts set forth in subsection (c), section five, article two of this chapter or give any gift, whether lawful or unlawful, to a government officer or employee without the government officer or employee's knowledge and consent.

WV Legislature

§6B-3-8. Limitation on persons lobbying in legislative chambers.

Former legislators and other persons having the privilege of the floor are prohibited from lobbying upon the floor of either house of the Legislature or the foyer thereof while such house is in session.

WV Legislature

§6B-3-9. Penalties.

(a) Any person who is required under the provisions of this article to file an application, statement or report and who willfully and knowingly makes a false statement, conceals a material fact or otherwise commits a fraud in the application, statement or report is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in a county or regional jail not more than one year, or both.

(b) A person who is subject to the registration and reporting requirements of this article and who fails or refuses to register or who fails or refuses to file a required statement or report or who otherwise violates the provisions of this article may be the subject of a complaint filed with the Ethics Commission and may be proceeded against in the same manner and to the same ends as a public officer or public employee under the provisions of this chapter.

(c) A person who willfully and knowingly files a false report under the provisions of this article is liable in a civil action to any government officer or employee who sustains damage as a result of the filing or publication of the report.

WV Legislature

§6B-3-10. Provisions may be adopted by local governments; disclosures by state agencies, municipalities, counties, and school districts relating to lobbying activities.

(a) An incorporated municipality may enact lobbyist regulation provisions substantially similar to the provisions of this article which may be modified to the extent necessary to make the provisions relevant to that jurisdiction and which may be further modified to the extent deemed necessary and appropriate by and for that jurisdiction.

(b) Beginning on July 1, 2022, every state agency, municipality, county, and school district in the state that contracts for lobbying services shall disclose, and when applicable provide copies of, the following information to the West Virginia Ethics Commission:

(1) Contract details, including, but not limited to, the identities of the parties to the contract, the date on which the contract becomes or became effective, any applicable extension dates, payment and reimbursement terms, and duration;

(2) A copy of the contract for lobbying services;

(3) All costs to be paid or reimbursed, or already paid or reimbursed, for lobbying services associated with or related to the contract for lobbying services, including itemized expenses such as dinners, meals, or events; and

(4) The identities of any individuals or entities engaging in activities pursuant to the contract for lobbying services that may require the individual or entity to register as a lobbyist.

(c) On July 1, 2023, and on July 1 of each year thereafter, every state agency, municipality, county, and school district in the state that has contracted for lobbying services in the preceding year shall report to the Ethics Commission all information required by the provisions of subsection (b) of this section.

WV Legislature

§6B-3-11. Compliance audits.

(a) The Commission shall initiate, by lottery, random audits of lobbyist registration statements and disclosure reports required to be filed under this chapter on or after July 1, 2005: Provided, That the Commission may not conduct compliance audits pursuant to this section until it has proposed for promulgation and received final approval from the Legislature of a legislative rule in accordance with the provisions of chapter twenty-nine-a of this code setting forth, among other things, the manner in which the audit is to be conducted, the information, documents and materials to be considered during the audit, the selection and qualification of the Auditor(s), the audit procedures to be employed by the Auditors and the preparation and contents of any post-audit reports.

(b) The Commission may hold up to four lotteries per year. The number of lotteries held within a given year will be a matter within the Commission's discretion.

(c) The number of audits to be conducted will be determined by the Commission through resolutions adopted at public meetings and based on various factors, including the complexity, results and time required to complete the audits.

(d) No lobbyist or lobbyist's employer will be subject to a random audit more than once in any 24-month period.

WV Legislature