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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

SENATE BILL NO. 86

(By Senators Holliday & Boley)



PASSED March 12, 1994

In Effect July 1, 1994 Passage

E N R O L L E D
Senate Bill No. 86

(BY SENATORS HOLLIDAY AND BOLEY)

[Passed March 12, 1994; to take effect July 1, 1994.]

AN ACT to amend and reenact sections one and eleven, article two, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the continuation of the West Virginia ethics commission; and changing compensation and expense reimbursement of commission members.

Be it enacted by the Legislature of West Virginia:

That sections one and eleven, article two, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2 . WEST VIRGINIA ETHICS COMMISSION; POWERS AND DUTIES; DISCLOSURE OF FINANCIAL INTEREST BY PUBLIC OFFICIALS AND EMPLOYEES; APPEARANCES BEFORE PUBLIC AGENCIES.

§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) There is hereby created the West Virginia ethics
- 2 commission, consisting of twelve members, no more than

3 seven of whom shall be members of the same political
4 party. The members of the commission shall be ap-
5 pointed by the governor with the advice and consent of
6 the Senate. Within thirty days of the effective date of
7 this section, the governor shall make the initial appoint-
8 ments to the commission. No person may be appointed to
9 the commission or continue to serve as a member of the
10 commission who holds elected or appointed office under
11 the government of the United States, the state of West
12 Virginia or any of its political subdivisions, or who is a
13 candidate for any of such offices, or who is otherwise
14 subject to the provisions of this chapter other than by
15 reason of his or her appointment to or service on the
16 commission. A member may contribute to a political
17 campaign, but no member shall hold any political party
18 office or participate in a campaign relating to a
19 referendum or other ballot issue.

20 (b) At least two members of the commission shall have
21 served as a member of the West Virginia Legislature; at
22 least two members of the commission shall have been
23 employed in a full-time elected or appointed office in
24 state government; at least one member shall have served
25 as an elected official in a county or municipal govern-
26 ment or on a county school board; at least one member
27 shall have been employed full time as a county or
28 municipal officer or employee; and at least two members
29 shall have served part time as a member or director of a
30 state, county or municipal board, commission or public
31 service district and at least four members shall be
32 selected from the public at large. No more than four
33 members of the commission shall reside in the same
34 congressional district.

35 (c) Of the initial appointments made to the commission,
36 two shall be for a term ending one year after the
37 effective date of this section, two for a term ending two
38 years after the effective date of this section, two for a
39 term ending three years after the effective date of this
40 section, three for a term ending four years after the
41 effective date of this section and three shall be for terms

42 ending five years after the effective date of this section.
43 Thereafter, terms of office shall be for five years, each
44 term ending on the same day of the same month of the
45 year as did the term which it succeeds. Each member
46 shall hold office from the date of his or her appointment
47 until the end of the term for which he or she was
48 appointed or until his or her successor qualifies for
49 office. When a vacancy occurs as a result of death,
50 resignation or removal in the membership of this
51 commission, it shall be filled by appointment within
52 thirty days of the vacancy for the unexpired portion of
53 the term in the same manner as original appointments.
54 No member shall serve more than two consecutive full or
55 partial terms and no person may be reappointed to the
56 commission until at least two years have elapsed after
57 the completion of a second successive term.

58 (d) Each member of the commission shall take and
59 subscribe to the oath or affirmation required pursuant to
60 section five, article IV of the constitution of West
61 Virginia. A member may be removed by the governor for
62 substantial neglect of duty, gross misconduct in office or
63 violation of this chapter, after written notice and
64 opportunity for reply.

65 (e) The commission shall meet within thirty days of the
66 initial appointments to the commission at a time and
67 place to be determined by the governor, who shall
68 designate a member to preside at that meeting until a
69 chairman is elected. At its first meeting, the commission
70 shall elect a chairman and such other officers as are
71 necessary. The commission shall within ninety days after
72 its first meeting adopt rules for its procedures.

73 (f) Seven members of the commission shall constitute
74 a quorum, except that when the commission is sitting as
75 a hearing board pursuant to section four of this article,
76 then five members shall constitute a quorum. Except as
77 may be otherwise provided in this article, a majority of
78 the total membership shall be necessary to act at all
79 times.

80 (g) Members of the commission shall receive the same
81 compensation and expense reimbursement as is paid to
82 members of the Legislature for their interim duties as
83 recommended by the citizens legislative compensation
84 commission and authorized by law for each day or
85 portion thereof engaged in the discharge of official
86 duties.

87 (h) The commission shall appoint an executive director
88 to assist the commission in carrying out its functions in
89 accordance with commission rules and regulations and
90 with applicable law. Said executive director shall be
91 paid such salary as may be fixed by the commission or as
92 otherwise provided by law. The commission shall
93 appoint and discharge counsel and employees and shall
94 fix the compensation of employees and prescribe their
95 duties. Counsel to the commission shall advise the
96 commission on all legal matters and on the instruction of
97 the commission may commence such civil actions as may
98 be appropriate: *Provided*, That no counsel shall both
99 advise the commission and act in a representative
100 capacity in any proceeding.

101 (i) The commission may delegate authority to the
102 chairman or executive director to act in the name of the
103 commission between meetings of the commission, except
104 that the commission shall not delegate the power to hold
105 hearings and determine violations to the chairman or
106 executive director.

107 (j) The chairman shall have the authority to designate
108 subcommittees of three persons, no more than two of
109 whom may be members of the same political party. Said
110 subcommittees shall be investigative panels which shall
111 have the powers and duties set forth hereinafter in this
112 article.

113 (k) The principal office of the commission shall be in
114 the seat of government but it or its designated subcom-
115 mittees may meet and exercise its power at any other
116 place in the state. Meetings of the commission shall be
117 public unless such meetings or hearings are required to

118 be private in conformity with the provisions of this
119 chapter relating to confidentiality, except that the
120 commission shall exclude the public from attendance at
121 discussions of commission personnel, planned or ongoing
122 litigation and planned or ongoing investigations.

123 (l) Meetings of the commission shall be upon the call of
124 the chairman and shall be conducted by the personal
125 attendance of the commission members and no meeting
126 shall be conducted by telephonic or other electronic
127 conferencing, nor shall any member be allowed to vote
128 by proxy: *Provided*, That telephone conferencing and
129 voting may be held for the purpose of approving or
130 rejecting any proposed advisory opinions prepared by
131 the commission, or for voting on issues involving the
132 administrative functions of the commission. Meetings
133 held by telephone conferencing shall require notice to
134 members in the same manner as meetings to be person-
135 ally attended, shall be electronically recorded and the
136 recordings shall be made a permanent part of the
137 commission records. Members shall not be compensated
138 for meetings other than those personally attended.

§6B-2-11. Continuation of commission.

1 Pursuant to the provisions of article ten, chapter four
2 of this code, the West Virginia ethics commission shall
3 continue to exist until the first day of July, two thou-
4 sand.

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

[Handwritten signature]
.....
Chairman Senate Committee

Ernest C Moore
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1994.

Russell E. Adams
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Paul Bruton
.....
President of the Senate

Paul W. Byrne
.....
Speaker House of Delegates

The within approved.....this the *30th*.....
day of *March*....., 1994.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/30/94

Time

1:05 PM