WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

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ENROLLED

HOUSE BILL No. 2328

(By Delegate Mr. Speaker, Mr. Chambers and Delegate Rowe and Staton)

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Passed March 11, 1995

In Effect Ninety Days from Passage
ENROLLED

H. B. 2328

(By Mr. Speaker, Mr. Chambers, and Delegates Rowe and Staton)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections five, six and ten, article two, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one, two and four, article three of said chapter, all relating to the ethical standards for elected and appointed officials and public employees; acceptance of honorarium; seeking employment by public officials or employees, solicitation of private business by public employees or officials; financial disclosure statements, filing requirements; definitions; penalties; registration of lobbyists; and reporting by lobbyists.

Be it enacted by the Legislature of West Virginia:

That sections five, six and ten, article two, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections one, two and four, article three of said chapter be amended and reenacted, all 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-2-5. Ethical standards for elected and appointed officials and public employees.

(a) Persons subject to section. — The provisions of this section apply to all elected and appointed public officials and public employees, whether full or part time, in state, county, municipal governments and their respective boards, agencies, departments and commissions and in any other regional or local governmental agency, including county school boards.

(b) Use of public office for private gain. — (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

(2) The Legislature, in enacting this subsection (b), relating to the use of public office or public employment for private gain, recognizes that there may be certain public officials or public employees who bring to their respective offices or employment their own unique personal prestige which is based upon their intelligence, education, experience, skills and abilities, or other personal gifts or traits. In many cases, these persons bring a personal prestige to their office or employment which inures to the benefit of the state and its citizens. Such persons may, in fact, be sought by the state to serve in their office or employment because, through their unusual gifts or traits, they bring stature and recognition to their office or employment and to the state itself. While the office or employment held or to be held by such persons may have its own inherent prestige, it would be unfair to such individuals and against the best interests of the citizens of this state to deny such persons the right to hold public office or be publicly employed on the grounds that they would, in
addition to the emoluments of their office or employment,
be in a position to benefit financially from the personal
prestige which otherwise inheres to them. Accordingly,
the commission is directed, by legislative rule, to establish
categories of such public officials and public employees,
identifying them generally by the office or employment
held, and offering persons who fit within such categories
the opportunity to apply for an exemption from the appli-
cation of the provisions of this subsection. Such exemp-
tions may be granted by the commission, on a case-
by-case basis, when it is shown that: (A) The public office
held or the public employment engaged in is not such that
it would ordinarily be available or offered to a substantial
number of the citizens of this state; (B) the office held or
the employment engaged in is such that it normally or
specifically requires a person who possesses personal pres-
tige; and (C) the person's employment contract or letter of
appointment provides or anticipates that the person will
gain financially from activities which are not a part of his
or her office or employment.

(c) Gifts. — (1) A public official or public employee
may not solicit any gift unless the solicitation is for a char-
itable purpose with no resulting direct pecuniary benefit
conferred upon the official or employee or his or her
immediate family: Provided, That no public official or
public employee may solicit for a charitable purpose any
gift from any person who is also an official or employee
of the state and whose position as such is subordinate to
the soliciting official or employee: Provided, however,
That nothing herein shall prohibit a candidate for public
office from soliciting a lawful political contribution. No
official or employee may knowingly accept any gift, di-
rectly or indirectly, from a lobbyist or from any person
whom the official or employee knows or has reason to
know:

(A) Is doing or seeking to do business of any kind
with his or her agency;
(B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

(A) Meals and beverages;

(B) Ceremonial gifts or awards which have insignificant monetary value;

(C) Unsolicited gifts of nominal value or trivial items of informational value;

(D) Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or speaking engagement at the meeting;

(E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;

(F) Gifts that are purely private and personal in nature; or
(G) Gifts from relatives by blood or marriage, or a member of the same household.

(3) The commission, shall, through legislative rule, promulgated pursuant to chapter twenty-nine-a of this code, establish guidelines for the acceptance of a reasonable honorarium by public officials and elected officials. The rule promulgated shall be consistent with this section. Any elected public official may accept an honorarium only when: (1) that official is a part-time elected public official; (2) the fee is not related to the officials' public position or duties; (3) the fee is for services provided by the public official that are related to the public official's regular, nonpublic trade, profession, occupation, hobby or avocation; and (4) the honorarium is not provided in exchange for any promise or action on the part of the public official.

(4) Nothing in this section shall be construed so as to prohibit the giving of a lawful political contribution as defined by law.

(5) The governor or his designee may, in the name of the state of West Virginia, accept and receive gifts from any public or private source. Any such gift so obtained shall become the property of the state and shall, within thirty days of the receipt thereof, be registered with the commission and the division of culture and history.

(d) Interests in public contracts. — (1) In addition to the provisions of section fifteen, article ten, chapter sixty-one of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which such official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body:
Provided, however, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which such part-time appointed public official may have direct authority to enter into or over which he or she may have control when such official has been recused from deciding or evaluating and excused from voting on such contract and has fully disclosed the extent of such interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having an interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is the contractor on the public contract involved. A limited interest for the purposes of this subsection is:

(A) An interest:

(i) Not exceeding ten percent of the partnership or the outstanding shares of a corporation; or

(ii) Not exceeding thirty thousand dollars interest in the profits or benefits of the contract; or

(B) An interest as a creditor:

(i) Not exceeding ten percent of the total indebtedness of a business; or

(ii) Not exceeding thirty thousand dollars interest in the profits or benefits of the contract.

(3) Where the provisions of subdivisions (1) and (2) of this subsection 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 state, county, municipality, county school board or other
(e) *Confidential information.* — No present or former
public official or employee may knowingly and improp-
erly disclose any confidential information acquired by
him or her in the course of his or her official duties nor
use such information to further his or her personal inter-
ests or the interests of another person.

(f) *Prohibited representation.* — No present or former
elected or appointed public official or public employee
shall, during or after his or her public employment or
service, represent a client or act in a representative capacity
with or without compensation on behalf of any person in a
contested case, rate-making proceeding, license or permit
application, regulation filing or other particular matter
involving a specific party or parties which arose during his
or her period of public service or employment and in
which he or she personally and substantially participated
in a decision-making, advisory or staff support capacity,
unless the appropriate government agency, after consulta-
tion, consents to such representation. A staff attorney,
accountant or other professional employee who has repre-
sented a government agency in a particular matter shall
not thereafter represent another client in the same or sub-
stantially related matter in which that client's interests are
materially adverse to the interests of the government agen-
cy, without the consent of the government agency: *Provid-
ed,* That this prohibition on representation shall not apply
when the client was not directly involved in the particular
matter in which such professional employee represented
the government agency, but was involved only as a mem-
ber of a class. The provisions of this subsection shall not
apply to legislators who were in office and legislative staff
who were employed at the time it originally became effec-
tive on the first day of July, one thousand nine hundred
eighty-nine and those who have since become legislators or legislative staff and those who shall serve hereafter as legislators or legislative staff.

(g) Limitation on practice before a board, agency, commission or department. — (1) No elected or appointed public official and no full-time staff attorney or accountant shall, during his or her public service or public employment or for a period of six months after the termination of his or her public service or public employment with a governmental entity authorized to hear contested cases or promulgate regulations, appear in a representative capacity before the governmental entity in which he or she serves or served or is or was employed in the following matters:

(A) A contested case involving an administrative sanction, action or refusal to act;

(B) To support or oppose a proposed regulation;

(C) To support or contest the issuance or denial of a license or permit;

(D) A rate-making proceeding; and

(E) To influence the expenditure of public funds.

(2) As used in this subsection, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person: Provided, That nothing contained in this subsection shall prohibit, during any period, a former public official or employee from being retained by or employed to represent, assist, or act in a representative capacity on behalf of the public agency by which he or she was employed or in which he or she served. Nothing in this subsection shall be construed to prevent a former public official or employee from representing another state, county, municipal or other governmental entity before the governmental entity in which he or she served or
was employed within six months after the termination of his or her employment or service in the entity.

(3) A present or former public official or employee may appear at any time in a representative capacity before the Legislature, a county commission, city or town council or county school board in relation to the consideration of a statute, budget, ordinance, rule, resolution or enactment.

(4) Members and former members of the Legislature and professional employees and former professional employees of the Legislature shall be permitted to appear in a representative capacity on behalf of clients before any governmental agency of the state, or of county or municipal governments including county school boards.

(5) An elected or appointed public official, full-time staff attorney or accountant who would be adversely affected by the provisions of this subsection may apply to the ethics commission for an exemption from the six months prohibition against appearing in a representative capacity, when the person's education and experience is such that the prohibition would, for all practical purposes, deprive the person of the ability to earn a livelihood in this state outside of the governmental agency. The ethics commission shall by legislative rule establish general guidelines or standards for granting an exemption or reducing the time period, but shall decide each application on a case-by-case basis.

(h) Employment by regulated persons. — (1) No full-time official or full-time public employee may seek employment with, be employed by, or seek to sell or lease real or personal property to any person who:

(A) Had a matter on which he or she took, or a subordinate is known to have taken, regulatory action with the preceding twelve months; or

(B) Has a matter before the agency to which he or she is working or a subordinate is known by him or her to be
(2) Within the meaning of this section, the term "employment" includes professional services and other services rendered by the public official or public employee, whether rendered as employee or as an independent contractor; "seek employment" includes responding to unsolicited offers of employment as well as any direct or indirect contact with a potential employer relating to the availability or conditions of employment in furtherance of obtaining employment; and "subordinate" includes only those agency personnel over whom the public servant has supervisory responsibility.

(3) A full-time public official or full-time public employee who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the prohibition contained in subsection (1). The Ethics Commission shall by legislative rule establish general guidelines or standards for granting an exemption, but shall decide upon each application on a case-by-case basis.

(4) A full-time public official or full-time public employee may not take personal regulatory action on a matter affecting a person by whom he or she is employed or with whom he or she is seeking employment or has an agreement concerning future employment.

(5) A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.

(i) Members of the Legislature required to vote. — Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the
rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.

(j) Limitations on participation in licensing and rate-making proceedings. — No public official or employee may participate within the scope of his or her duties as a public official or employee, except through ministerial functions as defined in section three, article one of this chapter, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation or association in which the public official or employee or his or her immediate family owns or controls more than ten percent. No public official or public employee may participate within the scope of his or her duties as a public official or public employee, except through ministerial functions as defined in section three, article one of this chapter, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or public employee or his or her immediate family, or a partnership, trust, business trust, corporation or association of which the public official or employee, or his or her immediate family, owns or controls more than ten percent, has sold goods or services totaling more than one thousand dollars during the preceding year, unless the public official or public employee has filed a written statement acknowledging such sale with the public agency and the statement is entered in any public record of the agency's proceedings. This subsection shall not be construed to require the disclosure of clients of attorneys or of patients or clients of persons licensed pursuant to articles three, eight, fourteen, fourteen-a, fifteen, sixteen, twenty, twenty-one or thirty-one, chapter thirty of this code.

(k) Certain expenses prohibited. — No public official or public employee shall knowingly request or accept from any governmental entity compensation or reimbursement for any expenses actually paid by a lobbyist
and required by the provisions of this chapter to be reported, or actually paid by any other person.

(l) Any person who is employed as a member of the faculty or staff of a public institution of higher education and who is engaged in teaching, research, consulting or publication activities in his or her field of expertise with public or private entities and thereby derives private benefits from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d) of this section when the activity is approved as a part of an employment contract with the governing board of such institution or has been approved by the employees' department supervisor or the president of the institution by which the faculty or staff member is employed.

(m) Except as provided in this section, a person who is a public official or public employee may not solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise and control. A person who is a public official or public employee may solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise and control when:

(A) The solicitation is a general solicitation directed to the public at large through the mailing or other means of distribution of a letter, pamphlet, handbill, circular or other written or printed media; or

(B) The solicitation is limited to the posting of a notice in a communal work area; or

(C) The solicitation is for the sale of property of a kind that the person is not regularly engaged in selling, or

(D) The solicitation is made at the location of a private business owned or operated by the person to which the subordinate public official or public employee has come on his or her own initiative.
(n) The commission by legislative rule promulgated in accordance with chapter twenty-nine-a of this code may define further exemptions from this section as necessary or appropriate.

§6B-2-6. Financial disclosure statement; filing requirements.

(a) The requirements for filing a financial disclosure statement shall become initially effective on the first day of February, one thousand nine hundred ninety, for all persons holding public office or employment on that date and who are otherwise required to file such statement under the provisions of this section. The initial financial disclosure statement shall cover the period from the first day of July, one thousand nine hundred eighty-nine, for the period ending the thirty-first day of January, one thousand nine hundred ninety. Thereafter, the financial disclosure statement shall be filed on the first day of February of each calendar year to cover the period of the preceding calendar year, except insofar as may be otherwise provided herein. The following persons must file the financial disclosure statement required by this section with the ethics commission:

(1) All elected officials in this state, including, but not limited to, all persons elected statewide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions of this section, all members of the several county or district boards of education and all county or district school board superintendents;

(2) All members of state boards, commissions and agencies appointed by the governor; and

(3) Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

A person who is required to file a financial disclosure
statement under this section by virtue of becoming an
elected or appointed public official whose office is de-
scribed in subdivision (1), (2) or (3) of this subsection,
and who assumes the office less than ten days before a
filing date established herein or who assumes the office
after the filing date, shall file a financial disclosure state-
ment for the previous twelve months no later than thirty
days after the date on which the person assumes the duties
of the office, unless the person has filed a financial disclo-
sure statement with the commission during the
twelve-month period before he or she assumed office.

(b) A candidate for public office shall file a financial
disclosure statement for the previous calendar year with
the state ethics commission no later than ten days after he
or she files a certificate of candidacy, but in all circum-
stances, not later than ten days prior to the election, unless
he or she has filed a financial disclosure statement with the
state ethics commission during the previous calendar
year.

The ethics commission shall file a duplicate copy of
the financial disclosure statement required in this section
in the following offices within ten days of the receipt of
the candidate's statement of disclosure:

(1) Municipal candidates in municipalities which have
opted, by ordinance, to be covered by the disclosure pro-
visions of this section, in the office of the clerk of the
municipality in which the candidate is seeking office;

(2) Legislative candidates in single county districts and
candidates for a county office or county school board in
the office of the clerk of the county commission of the
county in which the candidate is seeking office;

(3) Legislative candidates from multicounty districts
and congressional candidates in the office of the clerk of
the county commission of the county of the candidate's
residence.
After a ninety day period following any election, the clerks who receive the financial disclosure statements of candidates, may destroy or dispose of those statements filed by candidates who were unsuccessful in the election.

(c) No candidate for public office may maintain his or her place on a ballot and no public official may take the oath of office or enter or continue upon his or her duties or receive compensation from public funds, unless he or she has filed a financial disclosure statement with the state ethics commission as required by the provisions of this section.

(d) The state ethics commission may, upon request of any person required to file a financial disclosure statement, and for good cause shown, extend the deadline for filing such statement for a reasonable period of time: Provided, That no extension of time shall be granted to a candidate who has not filed a financial disclosure statement for the preceding filing period.

(e) No person shall fail to file a statement required by this section.

(f) No person shall knowingly file a materially false statement that is required to be filed under this section.

§6B-2-10. Violations and penalties.

(a) If any person violates the provisions of subsection (e), (f), or (g), section five of this article, or violates the provisions of subdivision (1), subsection (e), section four of this article, such person, upon conviction thereof, shall be guilty of a misdemeanor, and, shall be punished by confinement in the county jail for a period not to exceed six months or shall be fined not more than one thousand dollars, or both such confinement and fine. If any person violating the provisions of subdivision (1), subsection (e), section four of this article shall be a member of the commission or an employee thereof, he or she shall, upon conviction, be subject to immediate removal or discharge.
(b) If any person violates the provisions of subsection (f), section six of this article by willfully and knowingly filing a false financial statement, such person shall, upon conviction thereof, be deemed guilty of false swearing and shall be punished as provided in section three, article five, chapter sixty-one of this code.

c) If any person knowingly fails or refuses to file a financial statement required by section six of this article, such person, upon conviction thereof, shall be guilty of a misdemeanor, and, shall be fined not less than one hundred dollars nor more than one thousand dollars.

(d) If any complainant violates the provisions of subdivision (2), subsection (f), section four, article two of this chapter by knowingly and willfully disclosing any information made confidential by an order of the commission, he or she shall be subject to administrative sanction by the commission as provided for in subsection (r), section four of this article.

ARTICLE 3. LOBBYISTS.

§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 mem-
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 non-ministerial functions. In the case of elected offices included herein, the term "government officer or employee" shall include 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 quasi-legislative action to be taken or withheld by any executive department.

(7)(A) "Lobbyist" means a person who, through communication with a government officer or employee, promotes, advocates or opposes or otherwise attempts 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 quasi-legislative action to be taken or withheld by any executive department.

(B) The term "lobbyist" shall not include the following persons, who shall be exempt from the registration and reporting requirements set forth in this article, unless such persons 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 for acting as lobbyists, and whose total expenditures in connection with such lobbying do not exceed twenty-five dollars during any calendar year, are exempt. The exemption contained in this subparagraph (iv) and 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 (iv) or subparagraph (ii) may at his or her option register and report under this
article.

(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.

(8) "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 subdivi-
 sion of the state.

§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 com-
mission by filing a lobbyist registration statement, signed
under oath or affirmation. The registration statement shall
contain such information and be in such form as the ethics
commission may prescribe 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 ad-
dresses 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 em-
ployed 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, lobby-
ing;

(4) A statement as to whether the registrant is em-
ployed or retained by his or her employer under any
agreement, arrangement or understanding according to
which the registrant's compensation, or any portion there-
of, 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;

(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) A registrant who lobbies with regard to matters before the Legislature must file duplicate copies of the lobbyist's registration statement required by subsection (a) or (d) of this section with the clerk of the Senate and the clerk of the House of Delegates contemporaneously with the filing with the ethics commission before engaging in any lobbying activity.

(c) 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 such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing.

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

(e) 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 shall terminate his registration. Until such 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.

§6B-3-4. Reporting by lobbyists.

(a) A lobbyist shall file with the commission reports of
his lobbying activities, signed under oath or affirmation
by the lobbyist. Lobbyists who are required under this
article to file copies of their registration statements with
the clerks of the respective houses of the Legislature shall
also contemporaneously file copies of all reports required
under this section with the clerks. Such reports shall be
filed as follows:

(1) On or before the Monday preceding the second
Wednesday in January of each year, a lobbyist shall file an
annual report of all lobbying activities which he or she
engaged in during the preceding calendar year; and

(2) If a lobbyist engages in lobbying with respect to
legislation, then:

(A) Between the fortieth and forty-fifth days of any
regular session of the Legislature in which any such lob-
bying occurred, the lobbyist shall file a report describing
all of his or her lobbying activities which occurred since
the beginning of the calendar year; and

(B) Within twenty-one days after the adjournment sine
die of any regular or extraordinary session of the Legisla-
ture in which any such lobbying occurred, the lobbyist
shall file a report describing all of his or her lobbying
activities which occurred since the beginning of the calen-
dar year or since the filing of the last report required by
this section, whichever is later.

(b)(1) Except as otherwise provided in this section,
each report filed by a lobbyist shall show the total amount
of all expenditures for lobbying made or incurred by such
lobbyist, or on behalf of such lobbyist by the lobbyist's
employer, 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 imme-
diate family of such persons; and other expenses or servic-
es.
(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 his or her own living accommodations;

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

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

(E) Separate expenditures to or on behalf of a public official or employee in an amount of less than five dollars.

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

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

(e) If, during the period covered by the report, the lobbyist made expenditures in the reporting categories of meals and beverages, living accommodations, travel, gifts or other expenditures, other than for those expenditures governed by subsection (f) of this section, which expenditures in any such reporting category total more than twenty-five dollars to or on behalf of any particular public official or employee, 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. Under this subsection (e), no portion of the amount of an expenditure for a dinner, party or other function sponsored by a lobbyist or a lobbyist's employer
need be attributed to or counted toward the reporting amount of twenty-five dollars for a particular public official or employee who attends such 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 such function shall be added to other expenditures for the purpose of determining the total amount of expenditures reported under subsection (b) of this section.

(f) 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, which reporting expenditures in any such reporting category total more than twenty-five dollars 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 the 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _________________ this the __________

day of _________________________, 1995.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/28/95
Time 8:46 AM