WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3051

(By Delegates Staton and Beane)

Passed March 8, 2003

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections seven 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 section four, article three of said chapter, all relating to altering the certain reportable threshold dollar amounts on certain elected and appointed public official financial disclosure statement; and increasing lobbyist expenditure reporting threshold to fifty dollars per reporting period.

Be it enacted by the Legislature of West Virginia:

That sections seven 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 section 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-2-7. Financial disclosure statement; contents.

The financial disclosure statement required under this article shall contain the following information:

1. The name, residential and business addresses of the person filing the statement and all names under which the person does business.

2. The name and address of each employer of the person.

3. The identification, by category, of every source of income over five thousand dollars received during the preceding calendar year, in his or her own name or by any other person for his or her use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. This subdivision does not require a person filing the statement who derives income from a business, profession or occupation to disclose the individual sources and items of income that constitute the gross income of that business, profession or occupation, nor does this subdivision require a person filing the statement to report the source or amount of income derived by his or her spouse.

4. If the person profited or benefited in the year prior to the date of filing from a contract for the sale of goods or services to a state, county, municipal or other local governmental agency either directly or through a partnership, corporation or association in which such person owned or controlled more than ten percent, the person shall describe the nature of the goods or services and identify the governmental agencies which purchased the goods or services.
(5) Each interest group or category listed below doing business in this state with which the person filing the statement did business or furnished services and from which the person received more than twenty percent of the person’s gross income during the preceding calendar year. The groups or categories are electric utilities, gas utilities, telephone utilities, water utilities, cable television companies, interstate transportation companies, intrastate transportation companies, oil or gas retail companies, banks, savings and loan associations, loan or finance companies, manufacturing companies, surface mining companies, deep mining companies, mining equipment companies, chemical companies, insurance companies, retail companies, beer, wine or liquor companies or distributors, recreation related companies, timbering companies, hospitals or other health care providers, trade associations, professional associations, associations of public employees or public officials, counties, cities or towns, labor organizations, waste disposal companies, wholesale companies, groups or associations seeking to legalize gambling, advertising companies, media companies, race tracks and promotional companies.

(6) The names of all persons, excluding that person’s immediate family, parents, or grandparents residing or transacting business in the state to whom the person filing the statement owes, on the date of execution of this statement in the aggregate in his or her own name or in the name of any other person more than twelve thousand five hundred dollars: Provided, That nothing herein shall require the disclosure of a mortgage on the person’s primary and secondary residences or of automobile loans on automobiles maintained for the use of the person’s immediate family, or of a student loan, nor shall this section require the disclosure of debts which result from the ordinary conduct of such person’s business, profession, or occupation or of debts of the person filing the statement to any financial institution, credit card company, or business, in which the person has an ownership interest: Provided, however, That the
previous proviso shall not exclude from disclosure loans
obtained pursuant to the linked deposit program provided for in
article one-a, chapter twelve of this code or any other loan or
debt incurred which requires approval of the state or any of its
political subdivisions.

(7) The names of all persons except immediate family
members, parents and grandparents residing or transacting
business in the state (other than a demand or savings account in
a bank, savings and loan association, credit union or building
and loan association or other similar depository) who owes on
the date of execution of this statement, more, in the aggregate,
than twelve thousand five hundred dollars to the person filing
the statement, either in his or her own name or to any other
person for his or her use or benefit. This subdivision does not
require the disclosure of debts owed to the person filing the
statement which debts result from the ordinary conduct of such
person’s business, profession or occupation or of loans made by
the person filing the statement to any business in which the
person has an ownership interest.

(8) The source of each gift having a value of over fifty
dollars, received from a person having a direct and immediate
interest in a governmental activity over which the person filing
the statement has control, shall be reported by the person filing
the statement when such gift is given to said person in his or her
name or for his or her use or benefit during the preceding
calendar year: Provided, That gifts received by will or by virtue
of the laws of descent and distribution, or received from one’s
spouse, child, grandchild, parents or grandparents, or received
by way of distribution from an inter vivos or testamentary trust
established by the spouse or child, grandchild, or by an ancestor
of the person filing the statement are not required to be re-
ported. As used in this subdivision any series or plurality of
gifts which exceeds in the aggregate the sum of fifty dollars
from the same source or donor, either directly or indirectly, and
in the same calendar year, shall be regarded as a single gift in excess of that aggregate amount.

§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 (e), 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 (q), section four of this article.

ARTICLE 3. LOBBYISTS.

§6B-3-4. Reporting by lobbyists.

(a) A lobbyist shall file with the commission reports of his or her lobbying activities, signed by the lobbyist. The 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 lobbying 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 Legislature in which any lobbying occurred, the lobbyist shall file a report describing all of his or her lobbying activities which occurred since the beginning of the calendar 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 the lobbyist, or on behalf of the 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 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 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 the expenditures in each category incurred on behalf of each of his or her 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 reporting category and not reported on a prior report total more than fifty 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, 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 fifty dollars for 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 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 reporting category total more than fifty 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Greg Bledsoe

Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Darrell Griffis

Clerk of the House of Delegates

Earl Ray Tomblin

President of the Senate

Speaker of the House of Delegates

The within is disapproved this the __th day of April, 2003.

Governor

Bob Wise
PRESENTED TO THE
GOVERNOR

Date 3/24/03

Time 10:45 A.M.