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CLERK OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4140

(By Delegates Amores, Kominar, Palumbo,
Webster and Armstead)



Passed March 13, 2004

In Effect Ninety Days from Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4140

(BY DELEGATES AMORES, KOMINAR, PALUMBO,
WEBSTER AND ARMSTEAD)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §6B-2-5a, relating to requiring the ethics commission to establish a code of conduct for state administrative law judges, including civil penalties and sanctions for violations.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §6B-2-5a, 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; CODE OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES.

§6B-2-5a. Code of conduct for state administrative law judges.

1 (a) As used in this section, “state administrative law judge”
2 means any public employee, public officer or contractor
3 functioning as a hearing officer, referee, trial examiner or other
4 position in state government to whom the authority to conduct
5 an administrative adjudication has been delegated by an agency
6 or by statute and who exercises independent and impartial
7 judgment in conducting hearings and in issuing recommended
8 decisions or reports containing findings of fact and conclusions
9 of law in accordance with applicable statutes or rules, but does
10 not include any person whose conduct is subject to the code of
11 judicial conduct promulgated by the West Virginia supreme
12 court of appeals.

13 (b) In accordance with the provisions of chapter
14 twenty-nine-a of this code, the commission, in consultation with
15 the West Virginia state bar, shall propose rules for legislative
16 approval establishing a code of conduct for state administrative
17 law judges, which shall incorporate the following major
18 provisions:

19 (1) A state administrative law judge shall uphold the
20 integrity and independence of the administrative judiciary;

21 (2) A state administrative law judge shall avoid impropriety
22 and the appearance of impropriety in all activities;

23 (3) A state administrative law judge shall perform the
24 duties of the office impartially and diligently;

25 (4) A state administrative law judge shall regulate the
26 judge’s extra-judicial activities to minimize the risk of conflict
27 with judicial duties;

28 (5) A state administrative law judge shall refrain from
29 political activity inappropriate to the office; and

30 (6) Appropriate civil penalties and sanctions for violations.

31 In proposing the rules, the commission shall consider the
32 model codes of judicial conduct for state administrative law
33 judges as drafted by the National Association of Administrative
34 Law Judges and the American Bar Association.

35 (c) The legislative rules shall provide that an individual
36 agency may develop a code of conduct for its own administra-
37 tive law judges, which shall supersede the general code of
38 conduct established under this section, if the commission
39 determines that it is in substantial compliance with the objec-
40 tives of the code proposed by the commission. Upon granting
41 a waiver to an agency, the commission shall retain a copy of the
42 agency's code to be made available to the public.

43 (d) The commission shall propose the legislative rules by
44 the first day of October, two thousand four, so that it may be
45 considered by the Legislature at the regular session in the year
46 two thousand five, and the commission may not promulgate an
47 emergency rule on this matter in the interim.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In 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 is approved this the 5th
day of April, 2004.

Governor

PRESENTED TO THE
GOVERNOR

DATE

3/21/04

TIME

11:05 am