WEST VIRGINIA LEGISLATURE
1ST EXTRAORDINARY SESSION, 2005

ENROLLED

Committee Substitute for
SENATE BILL NO. 1003

(By Senator: Tomblin, Mr. President, and Spruance, by Request of the Executive)

PASSED January 29, 2005

In Effect July 1, 2005

Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 1003
(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE
BY REQUEST OF THE EXECUTIVE)

[Passed January 29, 2005; to take effect July 1, 2005.]

AN ACT to amend and reenact §6B-1-3 of the Code of West Virginia, 1931, as amended; to amend said Code by adding thereto a new section, designated §6B-1-6; to amend and reenact §6B-2-1, §6B-2-2, §6B-2-4, §6B-2-5, §6B-2-7, §6B-2-9 and §6B-2-10 of said Code; to amend said Code by adding thereto three new sections, designated §6B-2-2a, §6B-2-3a and §6B-2-5b; to amend and reenact §6B-3-1, §6B-3-2, §6B-3-3a, §6B-3-4 and §6B-3-7 of said Code; and to amend said Code by adding thereto three new sections, designated §6B-3-3b, §6B-3-3c and §6B-3-11, all relating generally to the ethical standards of public officers, employees and lobbyists; providing a definition of certain terms; creating a special revenue account; clarifying membership qualifications for the West Virginia Ethics Commission; modifying compensation and procedure for meetings of the West Virginia Ethics Commission; revising the powers, duties and authority of the Commission; providing for procedures with
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respect to the filing of complaints against persons subject to
said chapter, the determination of probable cause that a
violation of this chapter has occurred and the conduct of
hearings with respect thereto; establishing the Probable
Cause Review Board; providing for appointment, powers and
duties; providing for confidentiality requirements as to
Commission members and staff, complainants and infor-
mants; establishing prohibition against certain Commission
members and staff for commenting on Commission proce-
dings; altering sanctions that Commission may impose;
providing immunity for good faith complainants and sanc-
tions for bad faith filings; referral of criminal conduct to
prosecutor; limitations on filing complaints; altering statute
of limitations; clarifying use of public office for private gain;
permitting solicitation of certain donations by members of
the Board of Public Works; providing ethical standards for
elected and appointed officials as well as certain public
employees; prohibiting public officials and employees from
receiving double compensation in certain circumstances;
modifying penalties; providing for ethics training for certain
public officials and employees; revising the contents of
financial disclosure statements required of certain public
officials and public employees; providing for the appoint-
ment of special prosecutors in certain cases; providing for
penalties for violations of said chapter; providing definitions
of certain terms related to lobbyists; providing for registra-
tion and reporting requirements for lobbyists; modifying
registration fees for lobbyists; clarifying conflict of interests
related to lobbying activities; providing for a lobbyist
training course; providing for reporting requirements for
lobbyists; altering duties of lobbyists and defining certain
acts which are violations; and providing for random compli-
ance audits of lobbyists and their employers.

Be it enacted by the Legislature of West Virginia:

That §6B–1–3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; that said Code be amended by adding
thereto a new section, designated §6B–1–6; that §6B–2–1,
§6B-2-2, §6B-2-4, §6B-2-5, §6B-2-7, §6B-2-9 and §6B-2-10 of said Code be amended and reenacted; that said Code be amended by adding thereto three new sections, designated §6B-2-2a, §6B-2-3a and §6B-2-5b; that §6B-3-1, §6B-3-2, §6B-3-3a, §6B-3-4 and §6B-3-7 of said Code be amended and reenacted; and that said Code be amended by adding thereto three new sections, designated §6B-3-3b, §6B-3-3c and §6B-3-11, all to read as follows:

ARTICLE 1. SHORT TITLE; LEGISLATIVE FINDINGS, PURPOSES AND INTENT; CONSTRUCTION AND APPLICATION OF CHAPTER; SEVERABILITY.

§6B-1-3. Definitions.

1 As used in this chapter, unless the context in which used clearly requires otherwise:

2 (a) “Review Board” means the Probable Cause Review Board created by section two-a, article two of this chapter.

3 (b) “Compensation” means money, thing of value or financial benefit. The term “compensation” does not include reimbursement for actual reasonable and necessary expenses incurred in the performance of one’s official duties.

4 (c) “Employee” means any person in the service of another under any contract of hire, whether express or implied, oral or written, where the employer or an agent of the employer or a public official has the right or power to control and direct such person in the material details of how work is to be performed and who is not responsible for the making of policy nor for recommending official action.

5 (d) “Ethics Commission” or “Commission” means the West Virginia Ethics Commission.

6 (e) “Immediate family”, with respect to an individual, means a spouse with whom the individual is living as husband and wife or any dependent child or children,
dependent grandchild or grandchildren and dependent parent or parents.

(f) "Ministerial functions" means actions or functions performed by an individual under a given state of facts in a prescribed manner in accordance with a mandate of legal authority, without regard to, or without the exercise of, the individual's own judgment as to the propriety of the action being taken.

(g) "Person" means an individual, corporation, business entity, labor union, association, firm, partnership, limited partnership, committee, club or other organization or group of persons, irrespective of the denomination given such organization or group.

(h) "Political contribution" means and has the same definition as is given that term under the provisions of article eight, chapter three of this code.

(i) "Public employee" means any full-time or part-time employee of any state, county or municipal governmental body or any political subdivision thereof, including county school boards.

(j) "Public official" means any person who is elected or appointed to any state, county or municipal office or position and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person.

(k) "Respondent" means a person who is the subject of an investigation by the Commission or against whom a complaint has been filed with the Commission.
(l) “Thing of value”, “other thing of value” or “anything of value” means and includes: (1) Money, bank bills or notes, United States treasury notes and other bills, bonds and circulate as money; (2) goods and chattels; (3) promissory notes, bills of exchange, orders, drafts, warrants, checks, bonds given for the payment of money or the forbearance of money due or owing; (4) receipts given for the payment of money or other property; (5) any right or chose in action; (6) chattels real or personal or things which savor of realty and are, at the time taken, a part of a freehold, whether they are of the substance or produce thereof or affixed thereto, although there may be no interval between the severing and the taking away thereof; (7) any interest in realty, including, but not limited to, fee simple estates, life estates, estates for a term or period of time, joint tenancies, cotenancies, tenancies in common, partial interests, present or future interests, contingent or vested interests, beneficial interests, leasehold interests or any other interest or interests in realty of whatsoever nature; (8) any promise of employment, present or future; (9) donation or gift; (10) rendering of services or the payment thereof; (11) any advance or pledge; (12) a promise of present or future interest in any business or contract or other agreement; or (13) every other thing or item, whether tangible or intangible, having economic worth. “Thing of value”, “other thing of value” or “anything of value” shall not include anything which is de minimis in nature nor a lawful political contribution reported as required by law.

§6B-1-6. Special revenue account.

All moneys collected pursuant to this chapter, except fines imposed pursuant to paragraph (D), subdivision (1), subsection (r), section four, article two of this chapter, shall be deposited in a special account in the state treasury to be known as the West Virginia Governmental Ethics Commission Fund. Expenditures from the fund shall be
provided, That for the fiscal year ending the thirtieth day of June, two thousand five, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature.

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-2-1. West Virginia Ethics Commission created; members; appointment, term of office and oath; compensation and reimbursement for expenses; meetings and quorum.

(a) There is hereby created the West Virginia Ethics Commission, consisting of twelve members, no more than seven of whom shall be members of the same political party. The members of the Commission shall be appointed by the Governor with the advice and consent of the Senate. Within thirty days of the effective date of this section, the Governor shall make the initial appointments to the Commission. No person may be appointed to the Commission or continue to serve as a member of the Commission who holds elected or appointed office under the government of the United States, the state of West Virginia or any of its political subdivisions, or who is a candidate for any of who is a candidate for any of those offices, who is employed as a registered lobbyist, or who is otherwise subject to the provisions of this chapter other than by reason of his or her appointment to or service on the Commission. A member may contribute to a political campaign, but no member shall hold any political party
office or participate in a campaign relating to a referendum or other ballot issue.

(b) At least two members of the Commission shall have served as a member of the West Virginia Legislature; at least two members of the Commission shall have been employed in a full-time elected or appointed office in state government; at least one member shall have served as an elected official in a county or municipal government or on a county school board; at least one member shall have been employed full time as a county or municipal officer or employee; and at least two members shall have served part time as a member or director of a state, county or municipal board, commission or public service district and at least four members shall be selected from the public at large. No more than four members of the Commission shall reside in the same congressional district.

(c) Of the initial appointments made to the Commission, two shall be for a term ending one year after the effective date of this section, two for a term ending two years after the effective date of this section, two for a term ending three years after the effective date of this section, three for a term ending four years after the effective date of this section and three shall be for terms ending five years after the effective date of this section. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of his or her appointment until the end of the term for which he or she was appointed or until his or her successor qualifies for office. When a vacancy occurs as a result of death, resignation or removal in the membership of this Commission, it shall be filled by appointment within thirty days of the vacancy for the unexpired portion of the term in the same manner as original appointments. No member shall serve more than two consecutive full or partial terms and no person may be reappointed to the Commission until at least two years have elapsed after the completion of a second successive term.
(d) Each member of the Commission shall take and subscribe to the oath or affirmation required pursuant to section five, article IV of the Constitution of West Virginia. A member may be removed by the Governor for substantial neglect of duty, gross misconduct in office or violation of this chapter, after written notice and opportunity for reply.

(e) The Commission shall meet within thirty days of the initial appointments to the Commission at a time and place to be determined by the Governor, who shall designate a member to preside at that meeting until a chairman is elected. At its first meeting, the Commission shall elect a chairman and other officers as are necessary. The Commission shall within ninety days after its first meeting adopt rules for its procedures.

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

(g) Members of the Commission shall receive the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties: Provided, That to be eligible for compensation and expense reimbursement, the member must be in personal attendance at the meeting in which the duties are performed.

(h) The Commission shall appoint an executive director to assist the Commission in carrying out its functions in accordance with Commission rules and with applicable law. The executive director shall be paid a salary fixed by the Commission or as otherwise provided by law. The Commission shall appoint and discharge counsel and
employees and shall fix the compensation of employees
and prescribe their duties. Counsel to the Commission
shall advise the Commission on all legal matters and on
the instruction of the Commission may commence appro-
priate civil actions: Provided, That no counsel shall both
advise the Commission and act in a representative capac-
ity in any proceeding.

(i) The Commission may delegate authority to the
chairman or executive director to act in the name of the
Commission between meetings of the Commission, except
that the Commission shall not delegate the power to hold
hearings and determine violations to the chairman or
executive director.

(j) The principal office of the Commission shall be in the
seat of government but it or its designated subcommittees
may meet and exercise its power at any other place in the
state. Meetings of the Commission shall be public unless:
(1) They are required to be private by the provisions of this
chapter relating to confidentiality; or (2) they involve
discussions of Commission personnel, planned or ongoing
litigation and planned or ongoing investigations.

(k) Meetings of the Commission shall be upon the call of
the chair and may be conducted by telephonic or other
electronic conferencing: Provided, That telephone or other
electronic conferencing and voting are not permitted when
the Commission is acting as a hearing board under section
four of this article or when an investigative panel meets to
receive an oral response as authorized under subsection
(d), section four of this article. Members shall be given
notice of meetings held by telephone or other electronic
conferencing in the same manner as meetings at which the
members are required to attend in person. Telephone or
other electronic conferences shall be electronically re-
corded and the recordings shall be retained by the Com-
mission in accordance with its record retention policy.

§6B-2-2. Same – General powers and duties.
(a) The Commission shall propose rules for promulgation in accordance with the provisions of chapter twenty-nine-a of this Code, to carry out the purposes of this article.

(b) The Commission may initiate or receive complaints and make investigations, as provided in section four of this article, and upon complaint by an individual of an alleged violation of this article by a public official or public employee, refer the complaint to the Review Board as provided in section two-a of this article. Any person charged with a violation of this chapter is entitled to the administrative hearing process contained in section four of this article.

(c) The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its duties and powers of investigation.

(d) The Commission shall, in addition to its other duties:

(1) Prescribe forms for reports, statements, notices and other documents required by law;

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act; and

(3) Provide assistance to agencies, officials and employees in administering the provisions of this act.

(e) The Commission may:

(1) Prepare reports and studies to advance the purpose of the law;

(2) Contract for any services which cannot satisfactorily be performed by its employees;
(3) Require the Attorney General to provide legal advice without charge to the Commission;

(4) Employ additional legal counsel;

(5) Request appropriate agencies of state to provide any professional assistance the Commission may require in the discharge of its duties: Provided, That the Commission shall reimburse any agency other than the Attorney General the cost of providing assistance; and

(6) Share otherwise confidential documents, materials or information with appropriate agencies of state government, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or information.


(a) There is hereby established a Probable Cause Review Board that shall conduct hearings to determine whether there is probable cause to believe that a violation of the West Virginia Governmental Ethics Act has occurred and, if so, to refer that investigation to the Ethics Commission. The Review Board is an autonomous board, not under the direction or control of the Ethics Commission. The Review Board will review complaints received or initiated by the Ethics Commission to make a threshold determination of whether probable cause exists to believe that a violation of the West Virginia Governmental Ethics Act has occurred.

(b) The Governor, by and with the advice and consent of the Senate, shall appoint three persons as members of the Review Board, each of whom shall be a resident and citizen of the state. Each member of the Review Board shall hold office until his successor has been appointed and qualified. At least one member of the Board must be an attorney licensed by the state of West Virginia and no more than two members can belong to the same political party. The members of the Review Board shall be appointed for overlapping terms of two years, except that the
original appointments shall be for terms of one, two and
three years, respectively. Any member whose term expires
may be reappointed by the Governor. In the event a
Review Board member is unable to complete his or her
term, a Governor shall appoint a person with similar
qualification to complete that term. Each Review Board
member shall receive the same compensation and expense
reimbursement as provided to Ethics Commission mem-
ers pursuant to section one of this article. These and all
other costs incurred by the Review Board shall be paid
from the budget of the Ethics Commission.

(c) No person may be appointed to the Review Board or
continue to serve as a member of the Review Board who
holds elected or appointed office under the government of
the United States, the state of West Virginia or any of its
political subdivisions, or who is a candidate for any of
such offices, or who is a registered lobbyist, or who is
otherwise subject to the provisions of this chapter other
than by reason of his or her appointment to or service on
the Review Board. A Review Board member may contrib-
ute to a political campaign, but no member shall hold any
political party office or participate in a campaign relating
to a referendum or other ballot issue.

(d) The Ethics Commission shall propose, for approval by
the Review Board, any procedural and interpretative rules
governing the operation of the Review Board. The Com-
mission shall propose these rules pursuant to article three,
chapter twenty-nine-a of the code.

(e) The Ethics Commission shall provide staffing and a
location for the Review Board to conduct hearings. The
Ethics Commission is authorized to employ and assign the
necessary professional and clerical staff to assist the
Review Board in the performance of its duties and Com-
mission staff shall, as the Commission deems appropriate,
also serve as staff to the Review Board. All investigations
and proceedings of the Review Board are deemed confi-
dential as provided in section four of this article and
members of the Review Board are bound to the same confidentiality requirements applicable to the Ethics Commission pursuant to this article.

(f) The Review Board may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Review Board's duties.

(g) Upon decision by the Review Board that probable cause exists to believe that a violation of this chapter has occurred, Commission staff shall send notice to the Commission members of the Review Board's finding. After an ethics complaint has been submitted to the Review Board in accordance with section four of this article, the Commission may take no further action until it receives the Review Board's probable cause finding.

§6B-2-3a. Complaints.

(a) The Commission may commence an investigation, pursuant to section four of this article, on the filing of a complaint duly verified by oath or affirmation, by any person.

(b) The Commission may order the executive director to prepare a complaint, upon a majority affirmative vote of its members, if it receives or discovers credible information which, if true, would merit an inquiry into whether a violation of this article has occurred.

(c) (1) No complaint may be accepted or initiated by the Commission against a public official or public employee during the sixty days before a primary or general election at which the public official or public employees is a candidate for elective office.

(2) The Commission shall stay any proceedings with regard to an ethics complaint filed against a public official or public employee candidate more than sixty days prior
to the election: Provided, Where there has not yet been a probable cause determination with regard to the allegations in the complaint, the public official or public employee candidate may waive the postponement in writing, in which case the Commission and the Review Board shall process the complaint and provide the candidate with a probable cause determination at least thirty days prior to the election.

(3) For purposes of this subsection, any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the public official or public employee candidate stands for elective office.

§6B-2-4. Processing complaints; dismissals; hearings; disposition; judicial review.

(a) Upon the filing of a complaint, the executive director of the Commission or his or her designee shall, within three working days, acknowledge the receipt of the complaint by first-class mail unless the complaint was initiated by the Commission or the complainant or his or her representative personally filed the complaint with the Commission and was given a receipt or other acknowledgment evidencing the filing of the complaint. No political party or officer, employee or agent of a political party acting in his or her official capacity may file a complaint for a violation of this chapter with the Commission. Nothing in this section prohibits a private citizen, acting in that capacity, from filing a verified complaint with the Commission under this section. Within fourteen days after the receipt of a complaint, the executive director shall refer the complaint to the Review Board created pursuant to section two-a of this article.

(b) Upon the referral of a complaint by the executive director pursuant to subsection (a) of this section, the Review Board shall determine whether the allegations of the complaint, if taken as true, would constitute a viola-
tion of law upon which the Commission could properly act under the provisions of this chapter. If the complaint is determined by a majority vote of the Review Board to be insufficient in this regard, the Review Board shall dismiss the complaint.

(c) Upon a finding by the Review Board that the complaint is sufficient, the executive director shall give notice of a pending investigation to the complainant, if any, and to the respondent. The notice of investigation shall be mailed to the parties, and, in the case of the respondent, shall be mailed as certified mail, return receipt requested, marked "Addressee only, personal and confidential". The notice shall describe the conduct of the respondent which is alleged to violate the law and a copy of the complaint shall be appended to the notice mailed to the respondent. Each notice of investigation shall inform the respondent that the purpose of the investigation is to determine whether probable cause exists to believe that a violation of law has occurred which may subject the respondent to administrative sanctions by the Commission, criminal prosecution by the state, or civil liability. The notice shall further inform the respondent that he or she has a right to appear before the Review Board and that he or she may respond in writing to the Commission within thirty days after the receipt of the notice, but that no fact or allegation shall be taken as admitted by a failure or refusal to timely respond.

(d) Within the 45-day period following the mailing of a notice of investigation, the Review Board shall proceed to consider: (1) The allegations raised in the complaint; (2) any timely received written response of the respondent; and (3) any other competent evidence gathered by or submitted to the Commission which has a proper bearing on the issue of probable cause. A respondent may appear before the Review Board and make an oral response to the complaint. The Commission shall promulgate rules prescribing the manner in which a respondent may present
his or her oral response. The Commission may ask a respondent to disclose specific amounts received from a source and request other detailed information not otherwise required to be set forth in a statement or report filed under the provisions of this chapter, if the information sought is considered to be probative as to the issues raised by a complaint or an investigation initiated by the Commission. Any information thus received shall be confidential except as provided by subsection (e) of this section. If a person asked to provide information fails or refuses to furnish the information to the Commission, the Commission may exercise its subpoena power as provided in this chapter, and any subpoena issued by the Commission shall have the same force and effect as a subpoena issued by a circuit court of this state. Enforcement of any subpoena may be had upon application to a circuit court of the county in which the Review Board is conducting an investigation, through the issuance of a rule or an attachment against the respondent as in cases of contempt.

(e)(1) No person who has filed a complaint, provided information to the Commission or has knowledge that the Commission is undertaking an investigation and no Commission member or employee or former member or employee shall disclose:

(A) his or her knowledge that a complaint has been filed or an investigation has been undertaken;

(B) any information he or she obtained as a result of having interacted with the Commission in connection with a particular investigation;

(C) the fact that he or she has filed a complaint, provided information to or testified before the Commission or otherwise participated in the Commission investigation; or

(D) the contents of any investigations, complaints, reports, records, proceedings, and other information received by the Commission and related to complaints.
made to the Commission or investigations conducted by
the Commission pursuant to this section, including the
identity of the complainant or respondent, except as
follows:

(i) Once there has been a finding that probable cause
exists to believe that a respondent has violated the provi-
sions of this chapter and the respondent has been served
by the Commission with a copy of the Review Board’s
order and the statement of charges prepared pursuant to
the provisions of subsection (g) of this section, the com-
plaint and all reports, records, nonprivileged and
nondeliberative material introduced at any probable cause
hearing held pursuant to the complaint cease to be confi-
dential.

(ii) After a finding of probable cause, any subsequent
hearing held in the matter for the purpose of receiving
evidence or the arguments of the parties or their represen-
tatives shall be open to the public and all reports, records
and nondeliberative materials introduced into evidence at
the hearing, as well as the Commission’s orders, are not
confidential.

(iii) The Commission may release any information
relating to an investigation at any time if the release has
been agreed to in writing by the respondent.

(iv) The complaint and the identity of the complainant
shall be disclosed to a person named as respondent imme-
diately upon the respondent’s request.

(v) Where the Commission is otherwise required by the
provisions of this chapter to disclose information or to
proceed in such a manner that disclosure is necessary and
required to fulfill those requirements.

(2) If, in a specific case, the Commission finds that there
is a reasonable likelihood that the dissemination of
information or opinion in connection with a pending or
imminent proceeding will interfere with a fair hearing or
otherwise prejudice the due administration of justice, the Commission shall order that all or a portion of the information communicated to the Commission to cause an investigation and all allegations of ethical misconduct or criminal acts contained in a complaint shall be confidential, and the person providing the information or filing a complaint shall be bound to confidentiality until further order of the Commission.

(3) If a complainant knowingly discloses confidential information in violation of this subsection, the Commission may impose the sanctions specified in subsection (r) of this section and in addition, or in lieu thereof, dismiss the complaint.

(f) If the members of the Review Board fail to find probable cause, the proceedings shall be dismissed by the Commission in an order signed by the majority members of the Review Board. Copies of the order of dismissal shall be sent to the complainant and served upon the respondent forthwith. If the Review Board decides by a unanimous vote that there is probable cause to believe that a violation under this chapter has occurred, the members of the Review Board shall sign an order directing the Commission staff to prepare a statement of charges, to assign the matter for hearing to the Commission or a hearing examiner as the Commission may subsequently direct. The Commission shall then schedule a hearing, to be held within ninety days after the date of the order, to determine the truth or falsity of the charges. The Commission’s review of the evidence presented shall be de novo. For the purpose of this section, service of process upon the respondent is obtained at the time the respondent or the respondent’s agent physically receives the process, regardless of whether the service of process is in person or by certified mail.

(g) At least eighty days prior to the date of the hearing, the Commission shall serve the respondent by certified mail, return receipt requested, with the statement of
charges and a notice of hearing setting forth the date, time and place for the hearing. The scheduled hearing may be continued only upon a showing of good cause by the respondent or under other circumstances as the Commission, by legislative rule, directs.

(h) The Commission may sit as a hearing board to adjudicate the case or may permit an assigned hearing examiner employed by the Commission to preside at the taking of evidence. The Commission shall, by legislative rule, establish the general qualifications for hearing examiners. The legislative rule shall also contain provisions which ensure that the functions of a hearing examiner will be conducted in an impartial manner and describe the circumstances and procedures for disqualification of hearing examiners.

(i) A member of the Commission or a hearing examiner presiding at a hearing may:

(1) Administer oaths and affirmations, compel the attendance of witnesses and the production of documents, examine witnesses and parties and otherwise take testimony and establish a record;

(2) Rule on offers of proof and receive relevant evidence;

(3) Take depositions or have depositions taken when the ends of justice will be served;

(4) Regulate the course of the hearing;

(5) Hold conferences for the settlement or simplification of issues by consent of the parties;

(6) Dispose of procedural requests or similar matters;

(7) Accept stipulated agreements;

(8) Take other action authorized by the Ethics Commission consistent with the provisions of this chapter.
(j) With respect to allegations of a violation under this chapter, the complainant has the burden of proof. The West Virginia Rules of Evidence governing proceedings in the courts of this state shall be given like effect in hearings held before the Commission or a hearing examiner. The Commission shall, by rule, regulate the conduct of hearings so as to provide full procedural due process to a respondent. Hearings before a hearing examiner shall be recorded electronically. When requested by either of the parties, the presiding officer shall order a transcript, verified by oath or affirmation, of each hearing held and so recorded. In the discretion of the Commission, a record of the proceedings may be made by a certified court reporter. Unless otherwise ordered by the Commission, the cost of preparing a transcript shall be paid by the party requesting the transcript. Upon a showing of indigency, the Commission may provide a transcript without charge. Within fifteen days following the hearing, either party may submit to the hearing examiner that party's proposed findings of fact. The hearing examiner shall thereafter prepare his or her own proposed findings of fact and make copies of the findings available to the parties. The hearing examiner shall then submit the entire record to the Commission for final decision.

(k) The recording of the hearing or the transcript of testimony, as the case may be, and the exhibits, together with all papers and requests filed in the proceeding, and the proposed findings of fact of the hearing examiner and the parties, constitute the exclusive record for decision by the Commission, unless by leave of the Commission a party is permitted to submit additional documentary evidence or take and file depositions or otherwise exercise discovery.

(l) The Commission shall set a time and place for the hearing of arguments by the complainant and respondent, or their respective representatives, and shall notify the parties thereof. Briefs may be filed by the parties in accordance with procedural rules promulgated by the
Commission. The Commission shall issue a final decision in writing within forty-five days of the receipt of the entire record of a hearing held before a hearing examiner or, in the case of an evidentiary hearing held by the Commission, acting as a hearing board in lieu of a hearing examiner, within twenty-one days following the close of the evidence.

(m) A decision on the truth or falsity of the charges against the respondent and a decision to impose sanctions must be approved by at least seven members of the Commission.

(n) Members of the Commission shall recuse themselves from a particular case upon their own motion with the approval of the Commission or for good cause shown upon motion of a party. The remaining members of the Commission shall, by majority vote, select a temporary member of the Commission to replace a recused member: Provided, That the temporary member selected to replace a recused member shall be a person of the same status or category, provided by subsection (b), section one of this article, as the recused member.

(o) Except for statements made in the course of official duties to explain Commission procedures, no member or employee or former member or employee of the Commission may make any public or nonpublic comment about any proceeding previously or currently before the Commission. Any member or employee or former member or employee of the Commission who violates this subsection is subject to the penalties contained in subsection (e), section ten of this article. In addition, violation of this subsection by a current member or employee of the Commission is grounds for immediate removal from office or termination of employment.

(p) A complainant may be assisted by a member of the Commission staff assigned by the Commission after a determination of probable cause.
(q) No employee of the Commission assigned to prosecute a complaint may participate in the Commission deliberations or communicate with Commission members or the public concerning the merits of a complaint.

(r)(1) If the Commission finds by evidence beyond a reasonable doubt that the facts alleged in the complaint are true and constitute a material violation of this article, it may impose one or more of the following sanctions:

(A) Public reprimand;

(B) Cease and desist orders;

(C) Orders of restitution for money, things of value, or services taken or received in violation of this chapter;

(D) Fines not to exceed five thousand dollars per violation; or

(E) Reimbursement to the Commission for the actual costs of investigating and prosecuting a violation. Any reimbursement ordered by the Commission for its costs under this paragraph shall be collected by the Commission and deposited into the special revenue account created pursuant to section six, article one of this chapter.

(2) In addition to imposing the above-specified sanctions, the Commission may recommend to the appropriate governmental body that a respondent be terminated from employment or removed from office.

(3) The Commission may institute civil proceedings in the circuit court of the county in which a violation occurred for the enforcement of sanctions.

(s) At any stage of the proceedings under this section, the Commission may enter into a conciliation agreement with a respondent if the agreement is deemed by a majority of the members of the Commission to be in the best interest of the state and the respondent. Any conciliation agreement must be disclosed to the public: Provided, That
negotiations leading to a conciliation agreement, as well as information obtained by the Commission during the negotiations, shall remain confidential except as may be otherwise set forth in the agreement.

(t) Decisions of the Commission involving the issuance of sanctions may be appealed to the Circuit Court of Kanawha County, West Virginia, or to the circuit court of the county where the violation is alleged to have occurred, only by the respondent, and only upon the grounds set forth in section four, article five, chapter twenty-nine-a of this code.

(u)(1) Any person who in good faith files a verified complaint or any person, official, or agency who gives credible information resulting in a formal complaint filed by Commission staff is immune from any civil liability that otherwise might result by reason of such actions.

(2) If the Commission determines, by clear and convincing evidence, that a person filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the investigation request or the information provided were not true; filed an unsubstantiated complaint or request for an investigation in reckless disregard of the truth or falsity of the statements contained therein; or filed one or more unsubstantiated complaints which constituted abuse of process, the Commission shall:

(A) Order the complainant or informant to reimburse the respondent for his or her reasonable costs;

(B) Order the complainant or informant to reimburse the respondent for his or her reasonable attorney fees; and

(C) Order the complainant or informant to reimburse the Commission for the actual costs of its investigation.

In addition, the Commission may decline to process any further complaints brought by the complainant, the initiator of the investigation or the informant.
(3) The sanctions authorized in this subsection are not exclusive and do not preclude any other remedies or rights of action the respondent may have against the complainant or informant under the law.

(v)(1) If at any stage in the proceedings under this section it appears to a Review Board, a hearing examiner or the Commission that there is credible information or evidence that the respondent may have committed a criminal violation, the matter shall be referred to the full Commission for its consideration. If, by a vote of two thirds of the members of the full Commission, it is determined that probable cause exists to believe a criminal violation has occurred, the Commission shall refer the matter to the appropriate county prosecuting attorney having jurisdiction for a criminal investigation and possible prosecution. Deliberations of the Commission with regard to referring a matter for criminal investigation by a prosecuting attorney shall be private and confidential. Notwithstanding any other provision of this article, once a referral for criminal investigation is made under the provisions of this subsection, the ethics proceedings shall be held in abeyance until action on the referred matter is concluded. If the referral of the matter to the prosecuting attorney results in a criminal conviction of the respondent, the Commission may resume its investigation or prosecution of the ethics violation, but may not impose a fine as a sanction if a violation is found to have occurred.

(2) If fewer than two thirds of the full Commission determine that a criminal violation has occurred, the Commission shall remand the matter to the Review Board, the hearing examiner or the Commission itself as a hearing board, as the case may be, for further proceedings under this article.

(w) The provisions of this section shall apply to violations of this chapter occurring after the thirtieth day of September, one thousand nine hundred eighty-nine, and within one year before the filing of a complaint: Provided,
That the applicable statute of limitations for violations which occur on or after the first day of July, two thousand five, is two years after the date on which the alleged violation occurred.

§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. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. 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, 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. Those 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 those persons may have its own inherent prestige, it would be unfair to those individuals and against the best interests of the citizens of this state to deny those persons the right to hold public office or to 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 public officials and public employees, identifying them generally by the office or employment held, and offering persons who fit within those categories the opportunity to apply for an exemption from the application of the provisions of this subsection. Exemptions 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 prestige; 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 charitable 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 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, directly 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 or her 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 has a speaking engagement;
(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 official’s 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 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.

(6) Upon prior approval of the joint committee on government and finance, any member of the Legislature may solicit donations for a regional or national legislative organization conference or other legislative organization
function to be held in the state for the purpose of deferring
costs to the state for hosting of the conference or function.
Legislative organizations are bipartisan regional or
national organizations in which the joint committee on
government and finance authorizes payment of dues or
other membership fees for the Legislature’s participation
and which assist this and other state legislatures and their
staff through any of the following:

(i) Advancing the effectiveness, independence and
integrity of legislatures in the states of the United States;
(ii) Fostering interstate cooperation and facilitating
information exchange among state legislatures;
(iii) Representing the states and their legislatures in the
American federal system of government;
(iv) Improving the operations and management of state
legislatures and the effectiveness of legislators and
legislative staff, and to encourage the practice of high
standards of conduct by legislators and legislative staff;
(v) Promoting cooperation between state legislatures in
the United States and legislatures in other countries.

The solicitations may only be made in writing. The
legislative organization may act as fiscal agent for the
conference and receive all donations. In the alternative, a
bona fide banking institution may act as the fiscal agent.
The official letterhead of the Legislature may not be used
by the legislative member in conjunction with the fund
raising or solicitation effort. The legislative organization
for which solicitations are being made shall file with the
Joint Committee on Government and Finance and with the
Secretary of State for publication in the State Register as
provided in article two of chapter twenty-nine-a of the
Code, copies of letters, brochures and other solicitation
documents, along with a complete list of the names and
last known addresses of all donors and the amount of
donations received. Any solicitation by a legislative member shall contain the following disclaimer:

“This solicitation is endorsed by [name of member]. This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. A copy of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, and with the Secretary of State and are available for public review.”

(7) Upon written notice to the Commission, any member of the Board of Public Works may solicit donations for a regional or national organization conference or other function related to the office of the member to be held in the state for the purpose of deferring costs to the state for hosting of the conference or function. The solicitations may only be made in writing. The organization may act as fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the office of the Board of Public Works member may not be used in conjunction with the fund raising or solicitation effort. The organization for which solicitations are being made shall file with the Joint Committee on Government and Finance, with the Secretary of State for publication in the state register as provided in article two of chapter twenty-nine-a of the code and with the Commission, copies of letters, brochures and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a member of the Board of Public Works shall contain the following disclaimer: “This solicitation is endorsed by (name of member of Board of Public Works.) This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. Copies of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, with the West Virginia Secretary of
State and with the West Virginia Ethics Commission and are available for public review.” Any monies in excess of those donations needed for the conference or function shall be deposited in the Capitol Dome and Capitol Improvement Fund established in section two, article four of chapter five-a of this code.

(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 the 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 the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her 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 governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

(e) Confidential information. – No present or former public official or employee may knowingly and improperly 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 interests 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 consultation, consents to such representation. A staff attorney, accountant or other professional employee who has represented a government agency in a particular matter shall not thereafter represent another client in the same or substantially related matter in which that client's interests are materially adverse to the interests of the government agency, without the consent of the government agency: Provided, That this prohibition on representation shall not apply when the client was not directly involved in the particular matter in which the professional employee represented the government agency, but was involved only as a member 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 effective 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 one year after the termination of his or her public service or public employment with a governmental entity authorized to hear contested cases or promulgate or propose rules, 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 rule;
(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 one year 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 purchase, sell or lease real or personal property to or from any person who:

(A) Had a matter on which he or she took, or a subordinate is known to have taken, regulatory action within 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 working.

(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 official or public employee 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 subdivision (1), of this subsection. The Ethics Commission shall by legislative rule establish general guidelines or stan-
(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, 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.
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 article three, eight, fourteen, fourteen-a, fifteen, sixteen, twenty, twenty-one or thirty-one, chapter thirty of this code.

(k) Certain compensation prohibited. — (1) A public employee may not receive additional compensation from another publicly-funded state, county or municipal office or employment for working the same hours, unless:

(A) The public employee’s compensation from one public employer is reduced by the amount of compensation received from the other public employer;

(B) The public employee’s compensation from one public employer is reduced on a pro rata basis for any work time missed to perform duties for the other public employer;

(C) The public employee uses earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment; or

(D) A part-time public employee who does not have regularly scheduled work hours or a public employee who is authorized by one public employer to make up, outside of regularly scheduled work hours, time missed to perform the duties of another public office or employment maintains time records, verified by the public employee and his
or her immediate supervisor at least once every pay period, showing the hours that the public employee did, in fact, work for each public employer. The public employer shall submit these time records to the Ethics Commission on a quarterly basis.

(2) This section does not prohibit a retired public official or public employee from receiving compensation from a publicly-funded office or employment in addition to any retirement benefits to which the retired public official or public employee is entitled.

(l) 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.

(m) 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 the institution or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(n) 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 or 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 or control when:
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.

(oc) The Commission may, by legislative rule promulgated
in accordance with chapter twenty-nine-a of this Code,
define further exemptions from this section as necessary or
appropriate.

§6B-2-5b. Ethics training requirements.

An individual who, on or after the effective date of this
subsection, is elected or appointed to serve in the Legisla-
ture, as a member of the Board of Public Works, and those
positions in the executive branch of state government
which the Governor designates by executive order, shall,
within six months of filling such position, attend a train-
ing course conducted by the Ethics Commission on the
requirements of the Ethics Act. The Commission shall
offer the training contemplated by this section once every
four years and shall prescribe by legislative rule the
nature, duration and content of the training and the
manner in which the training will be conducted.

§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 name and address of each business in which the person filing the statement has or had in the last year an interest of ten thousand dollars at fair market value or five percent ownership interest, if that interest is valued at more ten thousand dollars.

(4) The identification, by category, of every source of income over one 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.

(5) If the person, profited or benefitted 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 the 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.

(6) 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 his
or her gross income during the preceding calendar year.
The groups or categories are electric utilities, gas utilities,
telephone utilities, water utilities, cable television compa-
ries, 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 promoting
gaming or lotteries, advertising companies, media compa-
ies, race tracks and promotional companies.

(7) 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 five thousand 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 main-
tained 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 the
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.

(8) The names of all persons except immediate family
members, parents and grandparents residing or transact-
ing 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 five thousand
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 the 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.

(9) The source of each gift, including those described in
subdivision (2), subsection (c), section five of this article,
having a value of over one hundred 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, effective from
passage of the amendments to this section enacted during
the First Extraordinary Session of the Legislature in two
thousand five, any person filing a statement required to be
filed pursuant to this section on or after the first day of
January, two thousand five, is not required to report those
gifts described in subdivision (2), subsection (c), section
five of this article that are otherwise required to be
reported under section four, article three of this chapter:
Provided, however, 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 reported. As used in this subdivision, any series or plurality of gifts which exceeds in the aggregate the sum of one hundred 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.

(10) The signature of the person filing the statement.


(a)(1) If after referral to the appropriate county prosecuting attorney under subsection (v), section four of this article the Ethics Commission finds that the prosecuting attorney is, due to ill health or conflict of interest, unable to undertake a criminal investigation or prosecution, the chair of the Ethics Commission may, upon a two-thirds vote of the members of the Ethics Commission, petition the appropriate circuit court for the appointment of a special prosecutor through the West Virginia Prosecuting Attorneys Institute pursuant to the provisions of section six, article four, chapter seven of this Code for the purpose of conducting an investigation to determine whether a violation of the criminal law of this state has occurred.

(2) If the West Virginia Prosecuting Attorneys Institute is unable, due to a conflict of interest of its Executive Director, to assign a special prosecuting attorney to a criminal investigation or prosecution, the chair of the Ethics Commission may, upon a two-thirds vote of the members of the Ethics Commission, petition the appropriate circuit court for the appointment of a special prosecutor through communication with the Board of Directors of the West Virginia Prosecuting Attorneys Institute.

(b) A special prosecutor shall have the same authority as a county prosecutor to investigate and prosecute persons
subject to this article for criminal violations committed in connection with their public office or employment which constitute felonies. No person who is serving as a prosecuting attorney or assistant prosecuting attorney of any county is required to take an additional oath when appointed to serve as a special prosecuting attorney.

(c) The ethics committee shall be authorized to employ and assign the necessary professional and clerical staff to assist any such special prosecutor in the performance of his or her duties.

(d) The special prosecutor shall be empowered to make a presentment to any regularly or specially impaneled grand jury in the appointing circuit court. The special prosecutor shall be empowered to prosecute any person indicted by such grand jury.

§6B-2-10. Violations and penalties.

(a) Any person who violates the provisions of subsection (e), (f) or (g), section five of this article, and any person, other than a complainant, who violates the provisions of subsection (e), section four of this article is guilty of a misdemeanor, and, upon conviction, shall be confined in the county or regional jail for a period not to exceed six months or fined not more than one thousand dollars, or both. A member or employee of the Commission convicted of violating subsection (e), section four of this article is subject to immediate removal from office or discharge from employment.

(b) Any person who violates the provisions of subsection (f), section six of this article by willfully and knowingly filing a false financial statement or knowingly and willfully concealing a material fact in filing the statement is guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars, or confined in the county or regional jail not more than one year, or both.
(c) Any person who knowingly fails or refuses to file a financial statement required by section six of this article, is guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars.

(d) If any Commission member or staff knowingly violates subsection (o), section four 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.

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 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 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
(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 one hundred and fifty dollars 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.

(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.

§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;
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.

§6B-3-3a. Registration fees.

(a) Each lobbyist shall, at the time he or she registers, pay the Commission a base registration fee of one hundred dollars, plus one hundred dollars 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 one hundred dollars 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 into the special revenue account created pursuant to section six, article one of this chapter.

§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.

§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 registra-
tion fees authorized in section three-a of this article, the
Commission may collect a reasonable fee from those
attending lobbyist training, which is to be collected by the
Ethics Commission and deposited in the special revenue
account created 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 per year.

§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 the fifteenth day of May, a lobbyist
report all lobbying activities in which he or she engaged
from the first day of January through the thirtieth day of
April.

(2) On or before the fifteenth day of September, a
lobbyist shall report all lobbying activities in which he or
she engaged from the first day of May through the thirty-
first day of August;

(3) On or before the fifteenth day of January, a lobbyist
shall report all lobbying activities in which he or she
engaged from the first day of September through the
thirty-first day of December.

(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 ten dollars for each late day, not to
exceed a total of two hundred and fifty dollars. 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 registered 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.

(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, 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.

§6B-3-7. Duties of lobbyists.

1 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 privi-
leges and may subject the person, and the person’s em-
ployer, if employer aids, abets, ratifies or confirms the
violation, to other civil liabilities as provided by this
chapter.

9 (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.

20 (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.

§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 the first day of July, two thousand five: 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 deter-
mined 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 10th Day of February, 2005.

Governor
PRESENTED TO THE GOVERNOR

Date 2/7/65

Time 3:45 PM