WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 339

(Senator Foster, original sponsor)

[Passed April 11, 2009; in effect ninety days from passage.]
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AN ACT to amend and reenact §61-10-15 of the Code of West Virginia, 1931, as amended, relating to exemptions for certain spousal relationships from county hiring and employment prohibition under limited circumstances; creating an exemption for certain spouses who were employed by the county prior to their engagement or marriage to a county official to county hiring prohibition; creating an exemption for certain licensed professional medical personnel to county hiring prohibition; limitations; and removing antiquated language.

Be it enacted by the Legislature of West Virginia:

That §61-10-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.
§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: Provided, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor or superintendent so convicted shall, upon conviction thereof, be immediately revoked: Provided, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.
(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $2,500 and, in the court's discretion, the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

1. Is not a party to the contract;
2. Is not an owner, a shareholder, a director or an officer of a private entity under the contract;
3. Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;
4. Does not participate in the deliberations or awarding of the contract; and
5. Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or board of educa-
tion, as the case may be, if the person does not participate
in the deliberations or any ultimate determination of the
depository of the funds.

(g) The provisions of subsection (a) of this section do not
apply to any person who has a pecuniary interest in a
public utility which is subject to regulation by the Public
Service Commission of this state.

(h) Where the provisions of subsection (a) of this section
would result in the loss of a quorum in a public body or
agency, in excessive cost, undue hardship or other sub-
stantial interference with the operation of a governmental
body or agency, the affected governmental body or agency
may make written application to the West Virginia Ethics
Commission pursuant to subsection (d), section five, article
two, chapter six-b of this code for an exemption from
subsection (a) of this section.

(i) The provisions of this section do not apply to publi-
cations in newspapers required by law to be made.

(j) No school employee or school official subject to the
provisions of subsection (a) of this section has an interest
in the sale, proceeds or profits in any book or other thing
used or to be used in the free school system of this state, as
proscribed in section nine, article XII of the Constitution
of West Virginia, if they qualify for the exceptions set
forth in subsection (e), (f), (g) or (h) of this section.

(k) The provisions of subsection (a) of this section do
not prevent or make unlawful the employment of the
spouse of any member of a county commission as a
licensed health care provider at government-owned
hospitals or other government agencies who provide health
care services: Provided, That the member of a county
commission whose spouse is employed or to be employed
may not:
99  (1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;
100  (2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or,
101  (3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(1) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: Provided, That the elected county official may not:

114  (1) Directly supervise the spouse employee; or

115  (2) Set the salary of the spouse employee: Provided, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.
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.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 13th Day of May, 2009.

Governor
PRESENTED TO THE GOVERNOR

MAY 7 2009

Time

[Signature]