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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2464

(By Delegates Miley, Boggs, Fragale,
Poling, Morgan, Hunt, Fleischauer, Moore,
Ellem, Hamilton and Lane)

Passed March 12, 2011

In Effect July 1, 2011

HB 2464 (veto)

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2464

(BY DELEGATES MILEY, BOGGS, FRAGALE,
POLING, MORGAN, HUNT, FLEISCHAUER, MOORE,
ELLEM, HAMILTON AND LANE)

[Passed March 12, 2011; in effect July 1, 2011.]

AN ACT to amend and reenact §6B-2-6 and §6B-2-7 of the Code of West Virginia, 1931, as amended, and to amend and reenact §6B-3-2 of said code, all relating to the Ethics Act generally; requiring public servants and spouses to disclose additional information on financial disclosure statements including, with limited exceptions, certain spousal information; defining a spouse; directing the ethics commission to publish and make available to the public notice of delinquent filing of financial statements; providing that the ethics commission publish financial statements in certain circumstances and clarifying existing requirements; and prohibiting certain public employees and public servants from registering as a lobbyist during and for a year following state government employment.

Be it enacted by the Legislature of West Virginia:

That §6B-2-6 and §6B-2-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that 6B-3-2 be amended and reenacted, all to read as follows:

**ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION;
POWERS AND DUTIES; DISCLOSURE
OF FINANCIAL INTEREST BY PUBLIC
OFFICIALS AND EMPLOYEES;
APPEARANCES BEFORE PUBLIC
AGENCIES; CODE OF CONDUCT FOR
ADMINISTRATIVE LAW JUDGES.**

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

1 (a) The Financial disclosure statement shall be filed on
2 the first day of February of each calendar year to cover the
3 period of the preceding calendar year, except insofar as may
4 be otherwise provided herein. The following persons must
5 file the financial disclosure statement required by this section
6 with the ethics commission:

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

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

16 (3) Secretaries of departments, commissioners, deputy
17 commissioners, assistant commissioners, directors, deputy

18 directors, assistant directors, department heads, deputy
19 department heads and assistant department heads.

20 A person who is required to file a financial disclosure
21 statement under this section by virtue of becoming an elected
22 or appointed public official whose office is described in
23 subdivision (1), (2) or (3) of this subsection, and who
24 assumes the office less than ten days before a filing date
25 established herein or who assumes the office after the filing
26 date, shall file a financial disclosure statement for the
27 previous twelve months no later than thirty days after the date
28 on which the person assumes the duties of the office, unless
29 the person has filed a financial disclosure statement with the
30 commission during the twelve-month period before he or she
31 assumed office.

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

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

43 (1) Municipal candidates in municipalities which have
44 opted, by ordinance, to be covered by the disclosure
45 provisions of this section, in the office of the clerk of the
46 municipality in which the candidate is seeking office;

47 (2) Legislative candidates in single county districts and
48 candidates for a county office or county school board in the

49 office of the clerk of the county commission of the county in
50 which the candidate is seeking office;

51 (3) Legislative candidates from multi-county districts and
52 congressional candidates in the office of the clerk of the
53 county commission of the county of the candidate's
54 residence.

55 After a ninety-day period following any election, the
56 clerks who receive the financial disclosure statements of
57 candidates may destroy or dispose of those statements filed
58 by candidates who were unsuccessful in the election.

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

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

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

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

76 (g) The ethics commission shall publish either on the
77 internet or by printed document made available to the public,

78 a list of all persons who have violated any ethics
79 commission's financial disclosure statement filing deadline.

80 (h) The ethics commission shall, in addition to making all
81 financial disclosure statements available for inspection upon
82 request:

83 (1) Publish on the internet all financial disclosure
84 statements filed by members of the legislature and candidates
85 for legislative office, elected members of the executive
86 department and candidates for the offices that constitute the
87 executive department, and members of the Supreme Court of
88 Appeals and candidates for the Supreme Court of Appeals,
89 commencing with those reports filed on or after January 1,
90 2012; and

91 (2) Publish on the internet all financial disclosure
92 statements filed by any other person required to file such
93 financial disclosure statements, as the commission
94 determines resources are available to permit the ethics
95 commission to make such publication on the internet. The
96 Commission shall redact financial disclosure statements
97 published on the internet to exclude from publication
98 personal information such as signatures, home addresses and
99 mobile and home telephone numbers.

§6B-2-7. Financial disclosure statement; contents.

1 (a) The financial disclosure statement required under this
2 article shall contain the following information:

3 (1) The name, residential and business addresses of the
4 person filing the statement and of his or her spouse and all
5 names under which the person or the person's spouse, or
6 both, do business. For purposes of this section, the word
7 "spouse" means any individual who is legally married to and
8 cohabits with the person filing the statement.

9 (2) For each position of employment held by the person
10 filing the statements and the person's spouse:

11 (A) The name of the employer;

12 (B) The address of the employer;

13 (C) The job title; and

14 (D) A general description of job duties.

15 (3) The name and address of each business in which the
16 person filing the statement or that person's spouse has or had
17 in the last year an interest of at least \$10,000 at fair market
18 value.

19 (A) For the purposes of this subsection, business interests
20 include, but are not limited to, an interest in:

21 (i) Non-publicly owned businesses;

22 (ii) Publicly or privately traded stocks, bonds or
23 securities, including those held in self-directed retirement
24 accounts; and

25 (iii) Commercial real estate.

26 (B) For the purposes of this subsection, business interests
27 do not include mutual funds, specific holdings in mutual
28 funds or retirement accounts.

29 (4) The name, address, and brief description of a
30 nonprofit organization in which the individual or spouse is a
31 director or officer.

32 (5) The identification, by category, of every source of
33 income over \$1,000, including distributions from retirement
34 accounts received during the preceding calendar year, in his
35 or her own name or by any other person for his or her use or
36 benefit, by the person filing the statement, or that person's
37 spouse, and a brief description of the nature of the income
38 producing activities for which the income was received. This
39 subdivision does not require a person filing the statement
40 who derives income from a business, profession or
41 occupation, or who's spouse derives income from a business,
42 profession or occupation, to disclose the individual sources
43 and items of income that constitute the gross income of that
44 business, profession or occupation.

45 (6) If the person filing the statement, or that person's
46 spouse, profited or benefitted in the year before the date of
47 filing from a contract for the sale of goods or services to a
48 state, county, municipal or other local governmental agency
49 either directly or through a partnership, corporation or
50 association in which the person, or that person's spouse,
51 owned or controlled more than ten percent, the person shall
52 describe the nature of the goods or services and identify the
53 governmental agencies which purchased the goods or
54 services.

55 (7) Each interest group or category listed below doing
56 business in this state with which the person filing the
57 statement, did business or furnished services and from which
58 the person filing the statement, or that person's spouse,
59 received more than twenty percent of his or her gross income
60 during the preceding calendar year. The groups or categories
61 are electric utilities, gas utilities, telephone utilities, water
62 utilities, cable television companies, interstate transportation
63 companies, intrastate transportation companies, oil or gas
64 retail, wholesale, exploration, production or drilling
65 companies, banks, savings and loan associations, loan or

66 finance companies, manufacturing companies, surface
67 mining companies, deep mining companies, mining
68 equipment companies, chemical companies, insurance
69 companies, retail companies, beer, wine or liquor companies
70 or distributors, recreation related companies, timbering
71 companies, hospitals or other health care providers, trade
72 associations, professional associations, associations of public
73 employees or public officials, counties, cities or towns, labor
74 organizations, waste disposal companies, wholesale
75 companies, groups or associations promoting gaming or
76 lotteries, advertising companies, media companies, race
77 tracks, promotional companies, lobbying, economic
78 development entities, state government, construction,
79 information technology and legal service providers.

80 (8) The names of all persons, excluding that person's
81 immediate family, parents or grandparents residing or
82 transacting business in the state to whom the person filing the
83 statement, owes, on the date of execution of this statement in
84 the aggregate in his or her own name or in the name of any
85 other person more than \$5,000: *Provided*, That nothing
86 herein requires the disclosure of a mortgage on the person's
87 primary and secondary residences or of automobile loans on
88 automobiles maintained for the use of the person's immediate
89 family, or of a student loan, nor does this section require the
90 disclosure of debts which result from the ordinary conduct of
91 the person's business, profession or occupation or of debts of
92 the person filing the statement to any financial institution,
93 credit card company or business, in which the person has an
94 ownership interest: *Provided, however*, That the previous
95 proviso does not exclude from disclosure loans obtained
96 pursuant to the linked deposit program provided in article
97 one-a, chapter twelve of this code or any other loan or debt
98 incurred which requires approval of the state or any of its
99 political subdivisions.

100 (9) The names of all persons except immediate family
101 members, parents and grandparents residing or transacting
102 business in the state (other than a demand or savings account
103 in a bank, savings and loan association, credit union or
104 building and loan association or other similar depository)
105 who owes on the date of execution of this statement more
106 than, in the aggregate, \$5,000 to the person filing the
107 statement, either in his or her own name or to any other
108 person for his or her use or benefit. This subdivision does
109 not require the disclosure of debts owed to the person filing
110 the statement which debts result from the ordinary conduct of
111 the person's business, profession or occupation or of loans
112 made by the person filing the statement to any business in
113 which the person has an ownership interest.

114 (10) The source of each gift, including those described in
115 subdivision (2), subsection (c), section five of this article,
116 having a value of over \$100, received from a person having
117 a direct and immediate interest in a governmental activity
118 over which the person filing the statement has control, shall
119 be reported by the person filing the statement when the gift
120 is given to that person in his or her name or for his or her use
121 or benefit during the preceding calendar year: *Provided*, That
122 any person filing a statement required to be filed pursuant to
123 this section is not required to report those gifts described in
124 subdivision (2), subsection (c), section five of this article that
125 are otherwise required to be reported by a registered lobbyist
126 under section four, article three of this chapter: *Provided*,
127 *however*, That gifts received by will or by virtue of the laws
128 of descent and distribution, or received from one's spouse,
129 child, grandchild, parents or grandparents, or received by
130 way of distribution from an inter vivos or testamentary trust
131 established by the spouse or child, grandchild or by an
132 ancestor of the person filing the statement are not required to
133 be reported. As used in this subdivision, any series or
134 plurality of gifts which exceeds in the aggregate the sum of

135 \$100 from the same source or donor, either directly or
136 indirectly, and in the same calendar year are regarded as a
137 single gift in excess of that aggregate amount.

138 (11) The name of each for-profit business of which the
139 person filing the statement, or that person's spouse, serves as
140 a member of the board of directors or an officer, as well as a
141 general description of the type of business.

142 (12) The name and business address of any child or step-
143 child who is eighteen years or older and employed by state,
144 county or municipal government.

145 (13) The signature of the person filing the statement.

146 (b) Notwithstanding the provisions of subsection (a) of
147 this section, any person serving on a board, commission or
148 agency for which no compensation, other than expense
149 reimbursement, is statutorily authorized, is not required to
150 disclose the financial information relating to his or her spouse
151 as required by subdivisions three or five of subsection (a) of
152 this section if:

153 (1) his or her spouse, or a business with which he or she
154 is associated, are not regulated by, do not have a contract
155 with, or do not receive any grants or appropriations from, the
156 board, the commission or agency on which the person filing
157 the statement serves. A business with which a filer's spouse
158 is associated means a business in which the person or an
159 immediate family member is a director, officer, owner,
160 employee, compensated agent, or holder of stock which
161 constitutes five percent or more of the total outstanding
162 stocks of any class; and,

163 (2) the filer executes a signed statement on a form
164 provided by the commission verifying these facts.

ARTICLE 3. LOBBYISTS.

§6B-3-2. Registration of lobbyists.

1 (a) Before engaging in any lobbying activity, or within
2 thirty days after being employed as a lobbyist, whichever
3 occurs first, a lobbyist shall register with the Ethics
4 Commission by filing a lobbyist registration statement. The
5 registration statement shall contain information and be in a
6 form prescribed by the Ethics Commission by legislative
7 rule, including, but not limited to, the following information:

8 (1) The registrant's name, business address, telephone
9 numbers and any temporary residential and business
10 addresses and telephone numbers used or to be used by the
11 registrant while lobbying during a legislative session;

12 (2) The name, address and occupation or business of the
13 registrant's employer;

14 (3) A statement as to whether the registrant is employed or
15 retained by his or her employer solely as a lobbyist or is a
16 regular employee performing services for the employer
17 which include, but are not limited to, lobbying;

18 (4) A statement as to whether the registrant is employed or
19 retained by his or her employer under any agreement,
20 arrangement or understanding according to which the
21 registrant's compensation, or any portion of the registrant's
22 compensation, is or will be contingent upon the success of his
23 or her lobbying activity;

24 (5) The general subject or subjects, if known, on which the
25 registrant will lobby or employ some other person to lobby in
26 a manner which requires registration under this article; and

27 (6) An appended written authorization from each of the
28 lobbyist's employers confirming the lobbyist's employment
29 and the subjects on which the employer is to be represented.

30 (b) Any lobbyist who receives or is to receive
31 compensation from more than one person for services as a
32 lobbyist shall file a separate notice of representation with
33 respect to each person compensating him or her for services
34 performed as a lobbyist. When a lobbyist whose fee for
35 lobbying with respect to the same subject is to be paid or
36 contributed by more than one person, then the lobbyist may
37 file a single statement, in which he or she shall detail the
38 name, business address and occupation of each person paying
39 or contributing to the fee.

40 (c) Whenever a change, modification or termination of the
41 lobbyist's employment occurs, the lobbyist shall, within one
42 week of the change, modification or termination, furnish full
43 information regarding the change, modification or
44 termination by filing with the Commission an amended
45 registration statement.

46 (d) Each lobbyist who has registered shall file a new
47 registration statement, revised as appropriate, on the Monday
48 preceding the second Wednesday in January of each odd-
49 numbered year and failure to do so terminates his or her
50 authorization to lobby. Until the registration is renewed, the
51 person may not engage in lobbying activities unless he or she
52 is otherwise exempt under paragraph (B), subdivision (7),
53 section one of this article.

54 (1) Members of the Legislature;

55 (2) Members of the Executive Department as referenced
56 in article VII, section one of the Constitution of West
57 Virginia;

58 (3) Will and pleasure professional employees of the
59 legislature under the direct supervision of a member of the
60 legislature;

61 (4) Will and pleasure professional employees of members
62 of the Executive Department under the direct supervision of
63 the Executive Department officer and who regularly,
64 personally and substantially participates in a decision-making
65 or advisory capacity regarding agency or department policy;

66 (5) Members of the Supreme Court of Appeals;

67 (6) Any department secretary of an executive branch
68 department created by the provisions of section two, article
69 one, chapter five-f of this code; and,

70 (7) Heads of any state departments or agencies.

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

Michael T. Fenn
Chairman, House Committee

[Signature]
Chairman, Senate Committee

Originating in the House.

To take effect July 1, 2011.

[Signature]
Clerk of the House of Delegates

[Signature]
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

[Signature]
Acting President of the Senate

The within is disapproved this the 18th
day of March, 2011.

[Signature]
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2011

Time 11:10 AM