



1                   **SEVERABILITY.**

2 **§6B-1-3. Definitions.**

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

5           (a) "Review Board" means the Probable Cause Review Board  
6 created by section two-a, article two of this chapter.

7           **(b) "Broad-based" means communications on specific issues**  
8 **(other than regular responses to constituent requests or ongoing**  
9 **litigation or legal matters) designed to reach more than fifty**  
10 **people at one time.**

11           ~~(b)~~ **(c)** "Business" means any entity through which business  
12 for-profit is conducted including a corporation, partnership,  
13 proprietorship, franchise, association, organization or self-  
14 employed individual.

15           ~~(c)~~ **(d)** "Compensation" means money, thing of value or  
16 financial benefit. The term "compensation" does not include  
17 reimbursement for actual reasonable and necessary expenses incurred  
18 in the performance of one's official duties.

19           **(e) "Directed by law" means the public servant or entity is**  
20 **directed to include certain information by statute, rule, court**  
21 **order or federal regulation.**

22           **(f) "Election period" means the time period between the**  
23 **deadline for filing for public office and the general election.**

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

8       ~~(e)~~ (h) "Ethics Commission" or "commission" means the West  
9 Virginia Ethics Commission.

10       ~~(f)~~ (i) "Immediate family", with respect to an individual,  
11 means a spouse with whom the individual is living as husband and  
12 wife and any dependent child or children, dependent grandchild or  
13 grandchildren and dependent parent or parents.

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

19       ~~(h)~~ (k) "Person" means an individual, corporation, business  
20 entity, labor union, association, firm, partnership, limited  
21 partnership, committee, club or other organization or group of  
22 persons, irrespective of the denomination given such organization  
23 or group.

1       ~~(i)~~ (l) "Political contribution" means and has the same  
2 definition as is given that term under the provisions of article  
3 eight, chapter three of this code.

4       (m) "Public advertising" means radio, television, newspaper,  
5 billboards, signs, or other media intended to convey a message or  
6 information relating to the public agency, commission, department  
7 or organization. However, dissemination of office press releases  
8 and information via email, social media, or other public relations  
9 tools for official purposes is not public advertising.

10       ~~(j)~~ (n) "Public employee" means any full-time or part-time  
11 employee of any state, county or municipal governmental body or any  
12 political subdivision thereof, including county school boards.

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

23       ~~(l)~~ (p) "Relative" means spouse, mother, father, sister,

1 brother, son, daughter, grandmother, grandfather, grandchild,  
2 mother-in-law, father-in-law, sister-in-law, brother-in-law, son-  
3 in-law or daughter-in-law.

4 ~~(m)~~ (q) "Respondent" means a person who is the subject of an  
5 investigation by the commission or against whom a complaint has  
6 been filed with the commission.

7 ~~(n)~~ (r) "Thing of value", "other thing of value" or "anything  
8 of value" means and includes: (1) Money, bank bills or notes,  
9 United States treasury notes and other bills, bonds or notes issued  
10 by lawful authority and intended to pass and circulate as money;  
11 (2) goods and chattels; (3) promissory notes, bills of exchange,  
12 orders, drafts, warrants, checks, bonds given for the payment of  
13 money or the forbearance of money due or owing; (4) receipts given  
14 for the payment of money or other property; (5) any right or chose  
15 in action; (6) chattels real or personal or things which savor of  
16 realty and are, at the time taken, a part of a freehold, whether  
17 they are of the substance or produce thereof or affixed thereto,  
18 although there may be no interval between the severing and the  
19 taking away thereof; (7) any interest in realty, including, but not  
20 limited to, fee simple estates, life estates, estates for a term or  
21 period of time, joint tenancies, cotenancies, tenancies in common,  
22 partial interests, present or future interests, contingent or  
23 vested interests, beneficial interests, leasehold interests or any

1 other interest or interests in realty of whatsoever nature; (8) any  
 2 promise of employment, present or future; (9) donation or gift;  
 3 (10) rendering of services or the payment thereof; (11) any advance  
 4 or pledge; (12) a promise of present or future interest in any  
 5 business or contract or other agreement; or (13) every other thing  
 6 or item, whether tangible or intangible, having economic worth.  
 7 "Thing of value", "other thing of value" or "anything of value"  
 8 shall not include anything which is de minimis in nature nor a  
 9 lawful political contribution reported as required by law.

10 (s) "Trinket" means a small tangible item, ornament, or thing  
 11 of trivial value, including, but not limited to, pens, pencils,  
 12 magnets, pill box holders, key-chains, nail files, matches, piggy  
 13 banks, gun locks and bags.

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

19 **§6B-2-5. Ethical standards for elected and appointed officials and**  
 20 **public employees.**

21 (a) *Persons subject to section.* -- The provisions of this  
 22 section apply to all elected and appointed public officials and

1 public employees, whether full or part time, in state, county,  
2 municipal governments and their respective boards, agencies,  
3 departments and commissions and in any other regional or local  
4 governmental agency, including county school boards.

5       (b) *Use of public office for private gain.* -- (1) A public  
6 official or public employee may not knowingly and intentionally use  
7 his or her office or the prestige of his or her office for his or  
8 her own private gain or that of another person. Incidental use of  
9 equipment or resources available to a public official or public  
10 employee by virtue of his or her position for personal or business  
11 purposes resulting in de minimis private gain does not constitute  
12 use of public office for private gain under this subsection. The  
13 performance of usual and customary duties associated with the  
14 office or position or the advancement of public policy goals or  
15 constituent services, without compensation, does not constitute the  
16 use of prestige of office for private gain.

17       (2) Notwithstanding the general prohibition against use of  
18 office for private gain, public officials and public employees may  
19 use bonus points acquired through participation in frequent  
20 traveler programs while traveling on official government business:  
21 *Provided,* That the official's or employee's participation in such  
22 program, or acquisition of such points, does not result in  
23 additional costs to the government.

1           (3) The Legislature, in enacting this subsection, recognizes  
2 that there may be certain public officials or public employees who  
3 bring to their respective offices or employment their own unique  
4 personal prestige which is based upon their intelligence,  
5 education, experience, skills and abilities, or other personal  
6 gifts or traits. In many cases, these persons bring a personal  
7 prestige to their office or employment which inures to the benefit  
8 of the state and its citizens. Those persons may, in fact, be  
9 sought by the state to serve in their office or employment because,  
10 through their unusual gifts or traits, they bring stature and  
11 recognition to their office or employment and to the state itself.  
12 While the office or employment held or to be held by those persons  
13 may have its own inherent prestige, it would be unfair to those  
14 individuals and against the best interests of the citizens of this  
15 state to deny those persons the right to hold public office or to  
16 be publicly employed on the grounds that they would, in addition to  
17 the emoluments of their office or employment, be in a position to  
18 benefit financially from the personal prestige which otherwise  
19 inheres to them. Accordingly, the commission is directed, by  
20 legislative rule, to establish categories of public officials and  
21 public employees, identifying them generally by the office or  
22 employment held, and offering persons who fit within those  
23 categories the opportunity to apply for an exemption from the

1 application of the provisions of this subsection. Exemptions may  
2 be granted by the commission, on a case-by-case basis, when it is  
3 shown that: (A) The public office held or the public employment  
4 engaged in is not such that it would ordinarily be available or  
5 offered to a substantial number of the citizens of this state; (B)  
6 the office held or the employment engaged in is such that it  
7 normally or specifically requires a person who possesses personal  
8 prestige; and (C) the person's employment contract or letter of  
9 appointment provides or anticipates that the person will gain  
10 financially from activities which are not a part of his or her  
11 office or employment.

12 (c) *Gifts.* -- (1) A public official or public employee may not  
13 solicit any gift unless the solicitation is for a charitable  
14 purpose with no resulting direct pecuniary benefit conferred upon  
15 the official or employee or his or her immediate family: *Provided,*  
16 That no public official or public employee may solicit for a  
17 charitable purpose any gift from any person who is also an official  
18 or employee of the state and whose position is subordinate to the  
19 soliciting official or employee: *Provided, however,* That nothing  
20 herein shall prohibit a candidate for public office from soliciting  
21 a lawful political contribution. No official or employee may  
22 knowingly accept any gift, directly or indirectly, from a lobbyist  
23 or from any person whom the official or employee knows or has

1 reason to know:

2 (A) Is doing or seeking to do business of any kind with his or  
3 her agency;

4 (B) Is engaged in activities which are regulated or controlled  
5 by his or her agency; or

6 (C) Has financial interests which may be substantially and  
7 materially affected, in a manner distinguishable from the public  
8 generally, by the performance or nonperformance of his or her  
9 official duties.

10 (2) Notwithstanding the provisions of subdivision (1) of this  
11 subsection, a person who is a public official or public employee  
12 may accept a gift described in this subdivision, and there shall be  
13 a presumption that the receipt of such gift does not impair the  
14 impartiality and independent judgment of the person. This  
15 presumption may be rebutted only by direct objective evidence that  
16 the gift did impair the impartiality and independent judgment of  
17 the person or that the person knew or had reason to know that the  
18 gift was offered with the intent to impair his or her impartiality  
19 and independent judgment. The provisions of subdivision (1) of  
20 this subsection do not apply to:

21 (A) Meals and beverages;

22 (B) Ceremonial gifts or awards which have insignificant  
23 monetary value;

1 (C) Unsolicited gifts of nominal value or trivial items of  
2 informational value;

3 (D) Reasonable expenses for food, travel and lodging of the  
4 official or employee for a meeting at which the official or  
5 employee participates in a panel or has a speaking engagement;

6 (E) Gifts of tickets or free admission extended to a public  
7 official or public employee to attend charitable, cultural or  
8 political events, if the purpose of such gift or admission is a  
9 courtesy or ceremony customarily extended to the office;

10 (F) Gifts that are purely private and personal in nature; or

11 (G) Gifts from relatives by blood or marriage, or a member of  
12 the same household.

13 (3) The commission shall, through legislative rule promulgated  
14 pursuant to chapter twenty-nine-a of this code, establish  
15 guidelines for the acceptance of a reasonable honorarium by public  
16 officials and elected officials. The rule promulgated shall be  
17 consistent with this section. Any elected public official may  
18 accept an honorarium only when:

19 (A) That official is a part-time elected public official;

20 (B) The fee is not related to the official's public position  
21 or duties;

22 (C) The fee is for services provided by the public official  
23 that are related to the public official's regular, nonpublic trade,

1 profession, occupation, hobby or avocation; and

2 (D) The honorarium is not provided in exchange for any promise  
3 or action on the part of the public official.

4 (4) Nothing in this section shall be construed so as to  
5 prohibit the giving of a lawful political contribution as defined  
6 by law.

7 (5) The Governor or his designee may, in the name of the State  
8 of West Virginia, accept and receive gifts from any public or  
9 private source. Any gift so obtained shall become the property of  
10 the state and shall, within thirty days of the receipt thereof, be  
11 registered with the commission and the Division of Culture and  
12 History.

13 (6) Upon prior approval of the Joint Committee on Government  
14 and Finance, any member of the Legislature may solicit donations  
15 for a regional or national legislative organization conference or  
16 other legislative organization function to be held in the state for  
17 the purpose of deferring costs to the state for hosting of the  
18 conference or function. Legislative organizations are bipartisan  
19 regional or national organizations in which the Joint Committee on  
20 Government and Finance authorizes payment of dues or other  
21 membership fees for the Legislature's participation and which  
22 assist this and other State Legislatures and their staff through  
23 any of the following:

1 (A) Advancing the effectiveness, independence and integrity of  
2 Legislatures in the states of the United States;

3 (B) Fostering interstate cooperation and facilitating  
4 information exchange among State Legislatures;

5 (C) Representing the states and their Legislatures in the  
6 American federal system of government;

7 (D) Improving the operations and management of State  
8 Legislatures and the effectiveness of legislators and legislative  
9 staff, and to encourage the practice of high standards of conduct  
10 by legislators and legislative staff;

11 (E) Promoting cooperation between State Legislatures in the  
12 United States and Legislatures in other countries.

13 The solicitations may only be made in writing. The legislative  
14 organization may act as fiscal agent for the conference and receive  
15 all donations. In the alternative, a bona fide banking institution  
16 may act as the fiscal agent. The official letterhead of the  
17 Legislature may not be used by the legislative member in  
18 conjunction with the fund raising or solicitation effort. The  
19 legislative organization for which solicitations are being made  
20 shall file with the Joint Committee on Government and Finance and  
21 with the Secretary of State for publication in the State Register  
22 as provided in article two of chapter twenty-nine-a of the code,  
23 copies of letters, brochures and other solicitation documents,

1 along with a complete list of the names and last known addresses of  
2 all donors and the amount of donations received. Any solicitation  
3 by a legislative member shall contain the following disclaimer:

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

10 (7) Upon written notice to the commission, any member of the  
11 board of Public Works may solicit donations for a regional or  
12 national organization conference or other function related to the  
13 office of the member to be held in the state for the purpose of  
14 deferring costs to the state for hosting of the conference or  
15 function. The solicitations may only be made in writing. The  
16 organization may act as fiscal agent for the conference and receive  
17 all donations. In the alternative, a bona fide banking institution  
18 may act as the fiscal agent. The official letterhead of the office  
19 of the board of Public Works member may not be used in conjunction  
20 with the fund raising or solicitation effort. The organization for  
21 which solicitations are being made shall file with the Joint  
22 Committee on Government and Finance, with the Secretary of State  
23 for publication in the State Register as provided in article two of

1 chapter twenty-nine-a of the code and with the commission, copies  
2 of letters, brochures and other solicitation documents, along with  
3 a complete list of the names and last known addresses of all donors  
4 and the amount of donations received. Any solicitation by a member  
5 of the Board of Public Works shall contain the following  
6 disclaimer: "This solicitation is endorsed by (name of member of  
7 Board of Public Works.) This endorsement does not imply support of  
8 the soliciting organization, nor of the sponsors who may respond to  
9 the solicitation. Copies of all solicitations are on file with the  
10 West Virginia Legislature's Joint Committee on Government and  
11 Finance, with the West Virginia Secretary of State and with the  
12 West Virginia Ethics Commission and are available for public  
13 review." Any moneys in excess of those donations needed for the  
14 conference or function shall be deposited in the Capitol Dome and  
15 Capitol Improvement Fund established in section two, article four  
16 of chapter five-a of this code.

17 (d) *Interests in public contracts.* --

18 (1) In addition to the provisions of section fifteen, article  
19 ten, chapter sixty-one of this code, no elected or appointed public  
20 official or public employee or member of his or her immediate  
21 family or business with which he or she is associated may be a  
22 party to or have an interest in the profits or benefits of a  
23 contract which the official or employee may have direct authority

1 to enter into, or over which he or she may have control: *Provided,*  
2 That nothing herein shall be construed to prevent or make unlawful  
3 the employment of any person with any governmental body: *Provided,*  
4 *however,* That nothing herein shall be construed to prohibit a  
5 member of the Legislature from entering into a contract with any  
6 governmental body, or prohibit a part-time appointed public  
7 official from entering into a contract which the part-time  
8 appointed public official may have direct authority to enter into  
9 or over which he or she may have control when the official has not  
10 participated in the review or evaluation thereof, has been recused  
11 from deciding or evaluating and has been excused from voting on the  
12 contract and has fully disclosed the extent of his or her interest  
13 in the contract.

14 (2) In the absence of bribery or a purpose to defraud, an  
15 elected or appointed public official or public employee or a member  
16 of his or her immediate family or a business with which he or she  
17 is associated shall not be considered as having a prohibited  
18 financial interest in a public contract when such a person has a  
19 limited interest as an owner, shareholder or creditor of the  
20 business which is awarded a public contract. A limited interest  
21 for the purposes of this subsection is:

22 (A) An interest which does not exceed \$1,000 in the profits or  
23 benefits of the public contract or contracts in a calendar year;

1           (B) An interest as a creditor of a public employee or official  
2 who exercises control over the contract, or a member of his or her  
3 immediate family, if the amount is less than \$5,000.

4           (3) If a public official or employee has an interest in the  
5 profits or benefits of a contract, then he or she may not make,  
6 participate in making, or in any way attempt to use his office or  
7 employment to influence a government decision affecting his or her  
8 financial or limited financial interest. Public officials shall  
9 also comply with the voting rules prescribed in subsection (j) of  
10 this section.

11           (4) Where the provisions of subdivisions (1) and (2) of this  
12 subsection would result in the loss of a quorum in a public body or  
13 agency, in excessive cost, undue hardship, or other substantial  
14 interference with the operation of a state, county, municipality,  
15 county school board or other governmental agency, the affected  
16 governmental body or agency may make written application to the  
17 Ethics Commission for an exemption from subdivisions (1) and (2) of  
18 this subsection.

19           (e) *Confidential information.* -- No present or former public  
20 official or employee may knowingly and improperly disclose any  
21 confidential information acquired by him or her in the course of  
22 his or her official duties nor use such information to further his  
23 or her personal interests or the interests of another person.

1           (f) *Prohibited representation.* -- No present or former elected  
2 or appointed public official or public employee shall, during or  
3 after his or her public employment or service, represent a client  
4 or act in a representative capacity with or without compensation on  
5 behalf of any person in a contested case, rate-making proceeding,  
6 license or permit application, regulation filing or other  
7 particular matter involving a specific party or parties which arose  
8 during his or her period of public service or employment and in  
9 which he or she personally and substantially participated in a  
10 decision-making, advisory or staff support capacity, unless the  
11 appropriate government agency, after consultation, consents to such  
12 representation. A staff attorney, accountant or other professional  
13 employee who has represented a government agency in a particular  
14 matter shall not thereafter represent another client in the same or  
15 substantially related matter in which that client's interests are  
16 materially adverse to the interests of the government agency,  
17 without the consent of the government agency: *Provided,* That this  
18 prohibition on representation shall not apply when the client was  
19 not directly involved in the particular matter in which the  
20 professional employee represented the government agency, but was  
21 involved only as a member of a class. The provisions of this  
22 subsection shall not apply to legislators who were in office and  
23 legislative staff who were employed at the time it originally

1 became effective on July 1, 1989, and those who have since become  
2 legislators or legislative staff and those who shall serve  
3 hereafter as legislators or legislative staff.

4       (g) *Limitation on practice before a board, agency, commission*  
5 *or department.* -- Except as otherwise provided in section three,  
6 four or five, article two, chapter eight-a of this code: (1) No  
7 elected or appointed public official and no full-time staff  
8 attorney or accountant shall, during his or her public service or  
9 public employment or for a period of one year after the termination  
10 of his or her public service or public employment with a  
11 governmental entity authorized to hear contested cases or  
12 promulgate or propose rules, appear in a representative capacity  
13 before the governmental entity in which he or she serves or served  
14 or is or was employed in the following matters:

15       (A) A contested case involving an administrative sanction,  
16 action or refusal to act;

17       (B) To support or oppose a proposed rule;

18       (C) To support or contest the issuance or denial of a license  
19 or permit;

20       (D) A rate-making proceeding; and

21       (E) To influence the expenditure of public funds.

22       (2) As used in this subsection, "represent" includes any  
23 formal or informal appearance before, or any written or oral

1 communication with, any public agency on behalf of any person:  
2 *Provided*, That nothing contained in this subsection shall prohibit,  
3 during any period, a former public official or employee from being  
4 retained by or employed to represent, assist or act in a  
5 representative capacity on behalf of the public agency by which he  
6 or she was employed or in which he or she served. Nothing in this  
7 subsection shall be construed to prevent a former public official  
8 or employee from representing another state, county, municipal or  
9 other governmental entity before the governmental entity in which  
10 he or she served or was employed within one year after the  
11 termination of his or her employment or service in the entity.

12 (3) A present or former public official or employee may appear  
13 at any time in a representative capacity before the Legislature, a  
14 county commission, city or town council or county school board in  
15 relation to the consideration of a statute, budget, ordinance,  
16 rule, resolution or enactment.

17 (4) Members and former members of the Legislature and  
18 professional employees and former professional employees of the  
19 Legislature shall be permitted to appear in a representative  
20 capacity on behalf of clients before any governmental agency of the  
21 state or of county or municipal governments, including county  
22 school boards.

23 (5) An elected or appointed public official, full-time staff

1 attorney or accountant who would be adversely affected by the  
2 provisions of this subsection may apply to the Ethics Commission  
3 for an exemption from the one year prohibition against appearing in  
4 a representative capacity, when the person's education and  
5 experience is such that the prohibition would, for all practical  
6 purposes, deprive the person of the ability to earn a livelihood in  
7 this state outside of the governmental agency. The Ethics  
8 Commission shall by legislative rule establish general guidelines  
9 or standards for granting an exemption or reducing the time period,  
10 but shall decide each application on a case-by-case basis.

11 (h) *Employment by regulated persons and vendors.* -- (1) No  
12 full-time official or full-time public employee may seek employment  
13 with, be employed by, or seek to purchase, sell or lease real or  
14 personal property to or from any person who:

15 (A) Had a matter on which he or she took, or a subordinate is  
16 known to have taken, regulatory action within the preceding twelve  
17 months; or

18 (B) Has a matter before the agency on which he or she is  
19 working or a subordinate is known by him or her to be working.

20 (C) Is a vendor to the agency where the official serves or  
21 public employee is employed and the official or public employee, or  
22 a subordinate of the official or public employee, exercises  
23 authority or control over a public contract with such vendor,

1 including, but not limited to:

2 (i) Drafting bid specifications or requests for proposals;

3 (ii) Recommending selection of the vendor;

4 (iii) Conducting inspections or investigations;

5 (iv) Approving the method or manner of payment to the vendor;

6 (v) Providing legal or technical guidance on the formation,  
7 implementation or execution of the contract; or

8 (vi) Taking other nonministerial action which may affect the  
9 financial interests of the vendor.

10 (2) Within the meaning of this section, the term "employment"  
11 includes professional services and other services rendered by the  
12 public official or public employee, whether rendered as employee or  
13 as an independent contractor; "seek employment" includes responding  
14 to unsolicited offers of employment as well as any direct or  
15 indirect contact with a potential employer relating to the  
16 availability or conditions of employment in furtherance of  
17 obtaining employment; and "subordinate" includes only those agency  
18 personnel over whom the public official or public employee has  
19 supervisory responsibility.

20 (3) A full-time public official or full-time public employee  
21 who would be adversely affected by the provisions of this  
22 subsection may apply to the Ethics Commission for an exemption from  
23 the prohibition contained in subdivision (1) of this subsection.

1           (A) The Ethics Commission shall by legislative rule establish  
2 general guidelines or standards for granting an exemption, but  
3 shall decide each application on a case-by-case basis;

4           (B) A person adversely affected by the restriction on the  
5 purchase of personal property may make such purchase after seeking  
6 and obtaining approval from the commission or in good faith  
7 reliance upon an official guideline promulgated by the commission,  
8 written advisory opinions issued by the commission, or a  
9 legislative rule.

10          (C) The commission may establish exceptions to the personal  
11 property purchase restrictions through the adoption of guidelines,  
12 advisory opinions or legislative rule.

13          (4) A full-time public official or full-time public employee  
14 may not take personal regulatory action on a matter affecting a  
15 person by whom he or she is employed or with whom he or she is  
16 seeking employment or has an agreement concerning future  
17 employment.

18          (5) A full-time public official or full-time public employee  
19 may not personally participate in a decision, approval,  
20 disapproval, recommendation, rendering advice, investigation,  
21 inspection or other substantial exercise of nonministerial  
22 administrative discretion involving a vendor with whom he or she is  
23 seeking employment or has an agreement concerning future

1 employment.

2       (6) A full-time public official or full-time public employee  
3 may not receive private compensation for providing information or  
4 services that he or she is required to provide in carrying out his  
5 or her public job responsibilities.

6       (i) *Members of the Legislature required to vote.* -- Members of  
7 the Legislature who have asked to be excused from voting or who  
8 have made inquiry as to whether they should be excused from voting  
9 on a particular matter and who are required by the presiding  
10 officer of the House of Delegates or Senate of West Virginia to  
11 vote under the rules of the particular house shall not be guilty of  
12 any violation of ethics under the provisions of this section for a  
13 vote so cast.

14       (j) *Limitations on voting.* --

15       (1) Public officials, excluding members of the Legislature who  
16 are governed by subsection (i) of this section, may not vote on a  
17 matter:

18       (A) In which they, an immediate family member, or a business  
19 with which they or an immediate family member is associated have a  
20 financial interest. Business with which they are associated means  
21 a business of which the person or an immediate family member is a  
22 director, officer, owner, employee, compensated agent, or holder of  
23 stock which constitutes five percent or more of the total

1 outstanding stocks of any class.

2 (B) If a public official is employed by a financial  
3 institution and his or her primary responsibilities include  
4 consumer and commercial lending, the public official may not vote  
5 on a matter which directly affects the financial interests of a  
6 customer of the financial institution if the public official is  
7 directly involved in approving a loan request from the person or  
8 business appearing before the governmental body or if the public  
9 official has been directly involved in approving a loan for that  
10 person or business within the past 12 months: *Provided*, That this  
11 limitation only applies if the total amount of the loan or loans  
12 exceeds \$15,000.

13 (C) A personnel matter involving the public official's spouse  
14 or relative;

15 (D) The appropriations of public moneys or the awarding of a  
16 contract to a nonprofit corporation if the public official or an  
17 immediate family member is employed by the nonprofit.

18 ~~(H)~~ (2) A public official may vote:

19 (A) If the public official, his or her spouse, immediate  
20 family members or relatives or business with which they are  
21 associated are affected as a member of, and to no greater extent  
22 than any other member of a profession, occupation, class of persons  
23 or class of businesses. A class shall consist of not fewer than

1 five similarly situated persons or businesses; or

2 (B) If the matter affects a publicly traded company when:

3 (i) The public official, or dependent family members  
4 individually or jointly own less than five percent of the issued  
5 stock in the publicly traded company and the value of the stocks  
6 individually or jointly owned is less than \$10,000; and

7 (ii) Prior to casting a vote the public official discloses his  
8 or her interest in the publicly traded company.

9 (3) For a public official's recusal to be effective, it is  
10 necessary to excuse him or herself from participating in the  
11 discussion and decision-making process by physically removing him  
12 or herself from the room during the period, fully disclosing his or  
13 her interests, and recusing him or herself from voting on the  
14 issue.

15 (k) *Limitations on participation in licensing and rate-making*  
16 *proceedings.* -- No public official or employee may participate  
17 within the scope of his or her duties as a public official or  
18 employee, except through ministerial functions as defined in  
19 section three, article one of this chapter, in any license or rate-  
20 making proceeding that directly affects the license or rates of any  
21 person, partnership, trust, business trust, corporation or  
22 association in which the public official or employee or his or her  
23 immediate family owns or controls more than ten percent. No public

1 official or public employee may participate within the scope of his  
2 or her duties as a public official or public employee, except  
3 through ministerial functions as defined in section three, article  
4 one of this chapter, in any license or rate-making proceeding that  
5 directly affects the license or rates of any person to whom the  
6 public official or public employee or his or her immediate family,  
7 or a partnership, trust, business trust, corporation or association  
8 of which the public official or employee, or his or her immediate  
9 family, owns or controls more than ten percent, has sold goods or  
10 services totaling more than \$1,000 during the preceding year,  
11 unless the public official or public employee has filed a written  
12 statement acknowledging such sale with the public agency and the  
13 statement is entered in any public record of the agency's  
14 proceedings. This subsection shall not be construed to require the  
15 disclosure of clients of attorneys or of patients or clients of  
16 persons licensed pursuant to article three, eight, fourteen,  
17 fourteen-a, fifteen, sixteen, twenty, twenty-one or thirty-one,  
18 chapter thirty of this code.

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

23       (A) The public employee's compensation from one public

1 employer is reduced by the amount of compensation received from the  
2 other public employer;

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

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

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

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

1 entitled.

2       (m) *Certain expenses prohibited.* -- No public official or  
3 public employee shall knowingly request or accept from any  
4 governmental entity compensation or reimbursement for any expenses  
5 actually paid by a lobbyist and required by the provisions of this  
6 chapter to be reported, or actually paid by any other person.

7       (n) Any person who is employed as a member of the faculty or  
8 staff of a public institution of higher education and who is  
9 engaged in teaching, research, consulting or publication activities  
10 in his or her field of expertise with public or private entities  
11 and thereby derives private benefits from such activities shall be  
12 exempt from the prohibitions contained in subsections (b), (c) and  
13 (d) of this section when the activity is approved as a part of an  
14 employment contract with the governing board of the institution or  
15 has been approved by the employee's department supervisor or the  
16 president of the institution by which the faculty or staff member  
17 is employed.

18       (o) Except as provided in this section, a person who is a  
19 public official or public employee may not solicit private business  
20 from a subordinate public official or public employee whom he or  
21 she has the authority to direct, supervise or control. A person  
22 who is a public official or public employee may solicit private  
23 business from a subordinate public official or public employee whom

1 he or she has the authority to direct, supervise or control when:

2 (A) The solicitation is a general solicitation directed to the  
3 public at large through the mailing or other means of distribution  
4 of a letter, pamphlet, handbill, circular or other written or  
5 printed media; or

6 (B) The solicitation is limited to the posting of a notice in  
7 a communal work area; or

8 (C) The solicitation is for the sale of property of a kind  
9 that the person is not regularly engaged in selling; or

10 (D) The solicitation is made at the location of a private  
11 business owned or operated by the person to which the subordinate  
12 public official or public employee has come on his or her own  
13 initiative.

14 (p) Self Promotion. -- (1) A public official or employee may  
15 not knowingly and intentionally place or allow the use of his or  
16 her personal name or likeness to be placed on a trinket that is  
17 purchased with public moneys and/or distributed by a public entity.  
18 However, the prohibition against self-promotion does not apply to  
19 incidental office items such as business cards, letterhead  
20 stationary, envelopes, door signs or plates, or other office  
21 insignia where the inclusion of the officeholder's name is  
22 appropriate.

23 (2) During any election period in which he or she is a

1 candidate, a public official or employee may not knowingly and  
2 intentionally place or allow the use of his or her personal name or  
3 likeness on any broad-based public advertising paid for with public  
4 moneys and/or distributed on behalf of a public entity.

5 ~~(p)~~ (q) The commission may, by legislative rule promulgated in  
6 accordance with chapter twenty-nine-a of this code, define further  
7 exemptions from this section as necessary or appropriate.

NOTE: The purpose of this bill is to prohibit public officials and employees from using public funds for self promotion. The bill prohibits knowingly and intentionally placing the names or likenesses of public officials and employees on trinkets. The bill prohibits knowingly and intentionally placing the names or likenesses of public officials and employees on certain publically-financed advertising during an election period. The bill makes these prohibitions violations of the West Virginia Governmental Ethics Act. The bill also defines terms.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.