

Senate Bill No. 484

(By Senators Palumbo, Williams, Cann, Kirkendoll, Tucker, Snyder
and Barnes)

[Introduced February 4, 2014; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §6B-2-1 of the Code of West Virginia,
1931, as amended, relating to changing the experience
requirements of the composition of the members of the West
Virginia Ethics Commission.

Be it enacted by the Legislature of West Virginia:

That §6B-2-1 of the Code of West Virginia, 1931, as amended,
be amended and reenacted 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.**

1 **§6B-2-1. West Virginia Ethics Commission created; members;**
2 **appointment, term of office and oath; compensation**
3 **and reimbursement for expenses; meetings and quorum.**

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

21 (b) At least ~~two~~ one member of the commission shall have
22 served as a member of the West Virginia Legislature; at least ~~two~~
23 one member of the commission shall have been employed in a full-

1 time elected or appointed office in state government; at least one
2 member shall have served as an elected official in a county or
3 municipal government or on a county school board; at least one
4 member shall have been employed full-time as a county or municipal
5 officer or employee; and at least ~~two~~ one member shall have served
6 part time as a member or director of a state, county or municipal
7 board, commission or public service district and at least ~~four~~
8 seven members shall be selected from the public at large. No more
9 than four members of the commission shall reside in the same
10 congressional district.

11 (c) Of the initial appointments made to the commission, two
12 shall be for a term ending one year after the effective date of
13 this section, two for a term ending two years after the effective
14 date of this section, two for a term ending three years after the
15 effective date of this section, three for a term ending four years
16 after the effective date of this section and three shall be for
17 terms ending five years after the effective date of this section.
18 Thereafter, terms of office shall be for five years, each term
19 ending on the same day of the same month of the year as did the
20 term which it succeeds. Each member shall hold office from the
21 date of his or her appointment until the end of the term for which
22 he or she was appointed or until his or her successor qualifies for
23 office. When a vacancy occurs as a result of death, resignation or

1 removal in the membership of this commission, it shall be filled by
2 appointment within thirty days of the vacancy for the unexpired
3 portion of the term in the same manner as original appointments.
4 No member shall serve more than two consecutive full or partial
5 terms and no person may be reappointed to the commission until at
6 least two years have elapsed after the completion of a second
7 successive term.

8 (d) Each member of the commission shall take and subscribe to
9 the oath or affirmation required pursuant to section five, article
10 IV of the Constitution of West Virginia. A member may be removed
11 by the Governor for substantial neglect of duty, gross misconduct
12 in office or violation of this chapter, after written notice and
13 opportunity for reply.

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

21 (f) Seven members of the commission shall constitute a quorum,
22 except that when the commission is sitting as a hearing board
23 pursuant to section four of this article, then five members shall

1 constitute a quorum. Except as may be otherwise provided in this
2 article, a majority of the total membership shall be necessary to
3 act at all times.

4 (g) Members of the commission shall receive the same
5 compensation and expense reimbursement as is paid to members of the
6 Legislature for their interim duties as recommended by the Citizens
7 Legislative Compensation Commission and authorized by law for each
8 day or portion thereof engaged in the discharge of official duties:
9 *Provided*, That to be eligible for compensation and expense
10 reimbursement, the member must participate in a meeting or
11 adjudicatory session: *Provided, however*, That the member is not
12 eligible for expense reimbursement if he or she does not attend a
13 meeting or adjudicatory session in person.

14 (h) The commission shall appoint an executive director to
15 assist the commission in carrying out its functions in accordance
16 with commission rules and with applicable law. The executive
17 director shall be paid a salary fixed by the commission or as
18 otherwise provided by law. The commission shall appoint and
19 discharge counsel and employees and shall fix the compensation of
20 employees and prescribe their duties. Counsel to the commission
21 shall advise the commission on all legal matters and on the
22 instruction of the commission may commence appropriate civil
23 actions: *Provided*, That no counsel shall both advise the

1 commission and act in a representative capacity in any proceeding.

2 (I) The commission may delegate authority to the chairman or
3 executive director to act in the name of the commission between
4 meetings of the commission, except that the commission shall not
5 delegate the power to hold hearings and determine violations to the
6 chairman or executive director.

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

15 (k) Meetings of the commission shall be upon the call of the
16 chair and may be conducted by telephonic or other electronic
17 conferencing: *Provided*, That telephone or other electronic
18 conferencing and voting are not permitted when the commission is
19 acting as a hearing board under section four of this article or
20 when the Probable Cause Review Board meets to receive an oral
21 response as authorized under subsection (d), section four of this
22 article. Members shall be given notice of meetings held by
23 telephone or other electronic conferencing in the same manner as

1 meetings at which the members are required to attend in person.
2 Telephone or other electronic conferences shall be electronically
3 recorded and the recordings shall be retained by the commission in
4 accordance with its record retention policy.

NOTE: The purpose of this bill is to change the experience requirements of composition of the members of the West Virginia Ethics Commission.

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