

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3119

BY DELEGATE AZINGER

[Introduced February 12, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating
 2 generally to the ethical standards for elected and appointed officials and public employees;
 3 and increasing the class size of similarly situated persons or businesses that includes a
 4 person who is also a public official, excluding members of the Legislature, that determines
 5 whether a public official may vote on a matter before him or her.

Be it enacted by the Legislature of West Virginia:

**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-2-5. Ethical standards for elected and appointed officials and public employees.

1 (a) *Persons subject to section.* — The provisions of this section apply to all public officials
 2 and public employees, whether full or part-time and whether compensated or not, in state, county,
 3 municipal governments and their respective boards, agencies, departments, and commissions
 4 and in any other regional or local governmental agency, including county school boards.

5 (b) *Use of public office for private gain.* —

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

14 (2) Notwithstanding the general prohibition against use of office for private gain, public

15 officials and public employees may use bonus points acquired through participation in frequent
16 traveler programs while traveling on official government business: *Provided*, That the official's or
17 employee's participation in such program, or acquisition of such points, does not result in
18 additional costs to the government.

19 (3) The Legislature, in enacting this subsection, recognizes that there may be certain
20 public officials or public employees who bring to their respective offices or employment their own
21 unique personal prestige which is based upon their intelligence, education, experience, skills and
22 abilities, or other personal gifts or traits. In many cases, these persons bring a personal prestige
23 to their office or employment which inures to the benefit of the state and its citizens. Those
24 persons may, in fact, be sought by the state to serve in their office or employment because,
25 through their unusual gifts or traits, they bring stature and recognition to their office or employment
26 and to the state itself. While the office or employment held or to be held by those persons may
27 have its own inherent prestige, it would be unfair to those individuals and against the best interests
28 of the citizens of this state to deny those persons the right to hold public office or to be publicly
29 employed on the grounds that they would, in addition to the emoluments of their office or
30 employment, be in a position to benefit financially from the personal prestige which otherwise
31 inheres to them. Accordingly, the commission is directed, by legislative rule, to establish
32 categories of public officials and public employees, identifying them generally by the office or
33 employment held, and offering persons who fit within those categories the opportunity to apply for
34 an exemption from the application of the provisions of this subsection. Exemptions may be
35 granted by the commission, on a case-by-case basis, when it is shown that: (A) The public office
36 held or the public employment engaged in is not such that it would ordinarily be available or
37 offered to a substantial number of the citizens of this state; (B) the office held or the employment
38 engaged in is such that it normally or specifically requires a person who possesses personal
39 prestige; and (C) the person's employment contract or letter of appointment provides or
40 anticipates that the person will gain financially from activities which are not a part of his or her

41 office or employment.

42 (4) A public official or public employee may not show favoritism or grant patronage in the
43 employment or working conditions of his or her relative or a person with whom he or she resides:
44 *Provided*, That as used in this subdivision, “employment or working conditions” shall only apply
45 to government employment: *Provided, however*, That government employment includes only
46 those governmental entities specified in subsection (a) of this section.

47 (c) *Gifts.* —

48 1) A public official or public employee may not solicit any gift unless the solicitation is for
49 a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or
50 employee or his or her immediate family: *Provided*, That no public official or public employee may
51 solicit for a charitable purpose any gift from any person who is also an official or employee of the
52 state and whose position is subordinate to the soliciting official or employee: *Provided, however*,
53 That nothing herein shall prohibit a candidate for public office from soliciting a lawful political
54 contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a
55 lobbyist or from any person whom the official or employee knows or has reason to know:

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

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

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

61 (2) Notwithstanding the provisions of subdivision (1) of this subsection, a person who is a
62 public official or public employee may accept a gift described in this subdivision, and there shall
63 be a presumption that the receipt of such gift does not impair the impartiality and independent
64 judgment of the person. This presumption may be rebutted only by direct objective evidence that
65 the gift did impair the impartiality and independent judgment of the person or that the person knew
66 or had reason to know that the gift was offered with the intent to impair his or her impartiality and

67 independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

68 (A) Meals and beverages;

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

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

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

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

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

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

78 (3) The commission shall, through legislative rule promulgated pursuant to chapter 29A of
79 this code, establish guidelines for the acceptance of a reasonable honorarium by public officials
80 and elected officials. The rule promulgated shall be consistent with this section. Any elected public
81 official may accept an honorarium only when:

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

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

84 (C) The fee is for services provided by the public official that are related to the public
85 official's regular, nonpublic trade, profession, occupation, hobby, or avocation; and

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

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

90 (5) The Governor or his designee may, in the name of the State of West Virginia, accept
91 and receive gifts from any public or private source. Any gift so obtained shall become the property
92 of the state and shall, within 30 days of the receipt thereof, be registered with the commission and

93 the Division of Culture and History.

94 (6) Upon prior approval of the Joint Committee on Government and Finance, any member
95 of the Legislature may solicit donations for a regional or national legislative organization
96 conference or other legislative organization function to be held in the state for the purpose of
97 deferring costs to the state for hosting of the conference or function. Legislative organizations are
98 bipartisan regional or national organizations in which the Joint Committee on Government and
99 Finance authorizes payment of dues or other membership fees for the Legislature's participation
100 and which assist this and other State Legislatures and their staff through any of the following:

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

103 (B) Fostering interstate cooperation and facilitating information exchange among State
104 Legislatures;

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

107 (D) Improving the operations and management of State Legislatures and the effectiveness
108 of legislators and legislative staff, and to encourage the practice of high standards of conduct by
109 legislators and legislative staff;

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

112 The solicitations may only be made in writing. The legislative organization may act as
113 fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking
114 institution may act as the fiscal agent. The official letterhead of the Legislature may not be used
115 by the legislative member in conjunction with the fund raising or solicitation effort. The legislative
116 organization for which solicitations are being made shall file with the Joint Committee on
117 Government and Finance and with the Secretary of State for publication in the State Register as
118 provided in §29A-2-1 *et seq.* of this code, copies of letters, brochures, and other solicitation

119 documents, along with a complete list of the names and last known addresses of all donors and
120 the amount of donations received. Any solicitation by a legislative member shall contain the
121 following disclaimer:

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

126 (7) Upon written notice to the commission, any member of the board of Public Works may
127 solicit donations for a regional or national organization conference or other function related to the
128 office of the member to be held in the state for the purpose of deferring costs to the state for
129 hosting of the conference or function. The solicitations may only be made in writing. The
130 organization may act as fiscal agent for the conference and receive all donations. In the
131 alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of
132 the office of the Board of Public Works member may not be used in conjunction with the fund
133 raising or solicitation effort. The organization for which solicitations are being made shall file with
134 the Joint Committee on Government and Finance, with the Secretary of State for publication in
135 the State Register as provided in §29A-2-1 *et seq.* of this code and with the commission, copies
136 of letters, brochures, and other solicitation documents, along with a complete list of the names
137 and last known addresses of all donors and the amount of donations received. Any solicitation by
138 a member of the board of Public Works shall contain the following disclaimer: “This solicitation is
139 endorsed by (name of member of Board of Public Works.) This endorsement does not imply
140 support of the soliciting organization, nor of the sponsors who may respond to the solicitation.
141 Copies of all solicitations are on file with the West Virginia Legislature’s Joint Committee on
142 Government and Finance, with the West Virginia Secretary of State and with the West Virginia
143 Ethics Commission and are available for public review.” Any moneys in excess of those donations
144 needed for the conference or function shall be deposited in the Capitol Dome and Capitol

145 Improvement Fund established in §5A-4-2 *et seq.* of this code.

146 (d) *Interests in public contracts.* —

147 (1) In addition to the provisions of §61-10-15 of this code, no elected or appointed public
148 official or public employee or member of his or her immediate family or business with which he or
149 she is associated may be a party to or have an interest in the profits or benefits of a contract which
150 the official or employee may have direct authority to enter into, or over which he or she may have
151 control: *Provided*, That nothing herein shall be construed to prevent or make unlawful the
152 employment of any person with any governmental body: *Provided, however*, That nothing herein
153 shall be construed to prohibit a member of the Legislature from entering into a contract with any
154 governmental body, or prohibit a part-time appointed public official from entering into a contract
155 which the part-time appointed public official may have direct authority to enter into or over which
156 he or she may have control when the official has not participated in the review or evaluation
157 thereof, has been recused from deciding or evaluating and has been excused from voting on the
158 contract and has fully disclosed the extent of his or her interest in the contract.

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

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

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

169 (3) If a public official or employee has an interest in the profits or benefits of a contract,
170 then he or she may not make, participate in making, or in any way attempt to use his office or

171 employment to influence a government decision affecting his or her financial or limited financial
172 interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this
173 section.

174 (4) Where the provisions of subdivisions (1) and (2) of this subsection would result in the
175 loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other
176 substantial interference with the operation of a state, county, municipality, county school board,
177 or other governmental agency, the affected governmental body or agency may make written
178 application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this
179 subsection.

180 (e) *Confidential information.* — No present or former public official or employee may
181 knowingly and improperly disclose any confidential information acquired by him or her in the
182 course of his or her official duties nor use such information to further his or her personal interests
183 or the interests of another person.

184 (f) *Prohibited representation.* — No present or former elected or appointed public official
185 or public employee shall, during or after his or her public employment or service, represent a client
186 or act in a representative capacity with or without compensation on behalf of any person in a
187 contested case, rate-making proceeding, license or permit application, regulation filing or other
188 particular matter involving a specific party or parties which arose during his or her period of public
189 service or employment and in which he or she personally and substantially participated in a
190 decision-making, advisory or staff support capacity, unless the appropriate government agency,
191 after consultation, consents to such representation. A staff attorney, accountant or other
192 professional employee who has represented a government agency in a particular matter shall not
193 thereafter represent another client in the same or substantially related matter in which that client's
194 interests are materially adverse to the interests of the government agency, without the consent of
195 the government agency: *Provided*, That this prohibition on representation shall not apply when
196 the client was not directly involved in the particular matter in which the professional employee

197 represented the government agency, but was involved only as a member of a class. The
198 provisions of this subsection shall not apply to legislators who were in office and legislative staff
199 who were employed at the time it originally became effective on July 1, 1989, and those who have
200 since become legislators or legislative staff and those who shall serve hereafter as legislators or
201 legislative staff.

202 (g) *Limitation on practice before a board, agency, commission or department.* — Except
203 as otherwise provided in §8A-2-3, §8A-2-4, or §8A-2-5 of this code:

204 (1) No elected or appointed public official and no full-time staff attorney or accountant
205 shall, during his or her public service or public employment or for a period of one year after the
206 termination of his or her public service or public employment with a governmental entity authorized
207 to hear contested cases or promulgate or propose rules, appear in a representative capacity
208 before the governmental entity in which he or she serves or served or is or was employed in the
209 following matters:

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

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

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

213 (D) A rate-making proceeding; and

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

215 (2) As used in this subsection, “represent” includes any formal or informal appearance
216 before, or any written or oral communication with, any public agency on behalf of any person:

217 *Provided,* That nothing contained in this subsection shall prohibit, during any period, a former
218 public official or employee from being retained by or employed to represent, assist or act in a
219 representative capacity on behalf of the public agency by which he or she was employed or in
220 which he or she served. Nothing in this subsection shall be construed to prevent a former public
221 official or employee from representing another state, county, municipal, or other governmental
222 entity before the governmental entity in which he or she served or was employed within one year

223 after the termination of his or her employment or service in the entity.

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

228 (4) Members and former members of the Legislature and professional employees and
229 former professional employees of the Legislature shall be permitted to appear in a representative
230 capacity on behalf of clients before any governmental agency of the state or of county or municipal
231 governments, including county school boards.

232 (5) An elected or appointed public official, full-time staff attorney or accountant who would
233 be adversely affected by the provisions of this subsection may apply to the Ethics Commission
234 for an exemption from the one year prohibition against appearing in a representative capacity,
235 when the person's education and experience is such that the prohibition would, for all practical
236 purposes, deprive the person of the ability to earn a livelihood in this state outside of the
237 governmental agency. The Ethics Commission shall, by legislative rule, establish general
238 guidelines or standards for granting an exemption or reducing the time period, but shall decide
239 each application on a case-by-case basis.

240 (h) *Employment by regulated persons and vendors.* —

241 (1) No full-time official or full-time public employee may seek employment with, be
242 employed by, or seek to purchase, sell or lease real or personal property to or from any person
243 who:

244 (A) Had a matter on which he or she took, or a subordinate is known to have taken,
245 regulatory action within the preceding 12 months; or

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

248 (C) Is a vendor to the agency where the official serves or public employee is employed

249 and the official or public employee, or a subordinate of the official or public employee, exercises
250 authority or control over a public contract with such vendor, including, but not limited to:

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

252 (ii) Recommending selection of the vendor;

253 (iii) Conducting inspections or investigations;

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

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

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

259 (2) Within the meaning of this section, the term "employment" includes professional
260 services and other services rendered by the public official or public employee, whether rendered
261 as employee or as an independent contractor; "seek employment" includes responding to
262 unsolicited offers of employment as well as any direct or indirect contact with a potential employer
263 relating to the availability or conditions of employment in furtherance of obtaining employment;
264 and "subordinate" includes only those agency personnel over whom the public official or public
265 employee has supervisory responsibility.

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

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

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

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

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

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

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

287 (i) *Members of the Legislature required to vote.* — Members of the Legislature who have
288 asked to be excused from voting or who have made inquiry as to whether they should be excused
289 from voting on a particular matter and who are required by the presiding officer of the House of
290 Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be
291 guilty of any violation of ethics under the provisions of this section for a vote so cast.

292 (j) *Limitations on voting.* —

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

295 (A) In which they, an immediate family member, or a business with which they or an
296 immediate family member is associated have a financial interest. Business with which they are
297 associated means a business of which the person or an immediate family member is a director,
298 officer, owner, employee, compensated agent, or holder of stock which constitutes five percent
299 or more of the total outstanding stocks of any class.

300 (B) If a public official is employed by a financial institution and his or her primary

301 responsibilities include consumer and commercial lending, the public official may not vote on a
302 matter which directly affects the financial interests of a customer of the financial institution if the
303 public official is directly involved in approving a loan request from the person or business
304 appearing before the governmental body or if the public official has been directly involved in
305 approving a loan for that person or business within the past 12 months: *Provided*, That this
306 limitation only applies if the total amount of the loan or loans exceeds \$15,000.

307 (C) The employment or working conditions of the public official's relative or person with
308 whom the public official resides.

309 (D) The appropriations of public moneys or the awarding of a contract to a nonprofit
310 corporation if the public official or an immediate family member is employed by, or a compensated
311 officer or board member of, the nonprofit: *Provided*, That if the public official or immediate family
312 member is an uncompensated officer or board member of the nonprofit, then the public official
313 shall publicly disclose such relationship prior to a vote on the appropriations of public moneys or
314 award of contract to the nonprofit: *Provided, however*, That for purposes of this paragraph, public
315 disclosure shall mean disclosure of the public official's, or his or her immediate family member's,
316 relationship to the nonprofit: (i) On the agenda item relating to the appropriation or award contract,
317 if known at time of agenda; (ii) by the public official at the meeting prior to the vote; and (iii) in the
318 minutes of the meeting.

319 (2) A public official may vote:

320 (A) If the public official, his or her spouse, immediate family members or relatives or
321 business with which they are associated are affected as a member of, and to no greater extent
322 than any other member of a profession, occupation, class of persons or class of businesses. A
323 class shall consist of not fewer than ~~five~~ 200 similarly situated persons or businesses; or

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

325 (i) The public official, or dependent family members individually or jointly own less than
326 five percent of the issued stock in the publicly traded company and the value of the stocks

327 individually or jointly owned is less than \$10,000; and

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

330 (3) For a public official's recusal to be effective, it is necessary to excuse him or herself
331 from participating in the discussion and decision-making process by physically removing him or
332 herself from the room during the period, fully disclosing his or her interests, and recusing him or
333 herself from voting on the issue. The recusal shall also be reflected in the meeting minutes.

334 (k) *Limitations on participation in licensing and rate-making proceedings.* — No public
335 official or employee may participate within the scope of his or her duties as a public official or
336 employee, except through ministerial functions as defined in §6B-1-3 of this code, in any license
337 or rate-making proceeding that directly affects the license or rates of any person, partnership,
338 trust, business trust, corporation, or association in which the public official or employee or his or
339 her immediate family owns or controls more than 10 percent. No public official or public employee
340 may participate within the scope of his or her duties as a public official or public employee, except
341 through ministerial functions as defined §6B-1-3 of this code, in any license or rate-making
342 proceeding that directly affects the license or rates of any person to whom the public official or
343 public employee or his or her immediate family, or a partnership, trust, business trust, corporation
344 or association of which the public official or employee, or his or her immediate family, owns or
345 controls more than 10 percent, has sold goods or services totaling more than \$1,000 during the
346 preceding year, unless the public official or public employee has filed a written statement
347 acknowledging such sale with the public agency and the statement is entered in any public record
348 of the agency's proceedings. This subsection shall not be construed to require the disclosure of
349 clients of attorneys or of patients or clients of persons licensed pursuant to §30-3-1 *et seq.*, §30-
350 8-1 *et seq.*, §30-14-1 *et seq.*, §30-14A-1 *et seq.*, §30-15-1 *et seq.*, §30-16-1 *et seq.*, §30-20-1 *et*
351 *seq.*, §30-21-1 *et seq.*, or §30-31-1 *et seq.* of this code.

352 (l) *Certain compensation prohibited.* —

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

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

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

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

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

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

372 (m) *Certain expenses prohibited.* — No public official or public employee shall knowingly
373 request or accept from any governmental entity compensation or reimbursement for any
374 expenses actually paid by a lobbyist and required by the provisions of this chapter to be reported,
375 or actually paid by any other person.

376 (n) Any person who is employed as a member of the faculty or staff of a public institution
377 of higher education and who is engaged in teaching, research, consulting, or publication activities
378 in his or her field of expertise with public or private entities and thereby derives private benefits

379 from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d)
380 of this section when the activity is approved as a part of an employment contract with the
381 governing board of the institution or has been approved by the employee's department supervisor
382 or the president of the institution by which the faculty or staff member is employed.

383 (o) Except as provided in this section, a person who is a public official or public employee
384 may not solicit private business from a subordinate public official or public employee whom he or
385 she has the authority to direct, supervise or control. A person who is a public official or public
386 employee may solicit private business from a subordinate public official or public employee whom
387 he or she has the authority to direct, supervise or control when:

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

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

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

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

397 (p) The commission may, by legislative rule promulgated in accordance with chapter 29A
398 of this code, define further exemptions from this section as necessary or appropriate.

NOTE: The purpose of this bill is to increase the class size of similarly situated persons or businesses that includes a person who is also a public official, excluding members of the Legislature, that determines whether a public official may vote on a matter before him or her. The bill increases the class size from 5 to 200.

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