

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5043

By Delegates Ridenour, Martin, C. Pritt, Kirby, Steele,
Householder, Mallow, Marple, Burkhammer, Phillips,
and Hillenbrand

[Originating in the Committee on the Judiciary;

Reported on February 20, 2024]

1 A BILL to amend §6B-3-1, §6B-3-2, §6B-3-4, §6B-3-6, and §6B-3-7 of the Code of West Virginia,
2 1931, as amended, and by adding thereto a new article, designated §6B-3A-1, §6B-3A-2,
3 §6B-3A-3, §6B-3A-4, §6B-3A-5, §6B-3A-6, §6B-3A-7, §6B-3A-8, §6B-3A-9, §6B-3A-10,
4 and §6B-3A-11, all relating to the requirements, prohibitions, and regulation of foreign
5 principals or agents of foreign principals, lobbying by or on behalf of such foreign principals
6 or their agents; providing definitions; amending provisions relating to the registration and
7 reporting duties of lobbyists; amending provisions relating to the employment of
8 unregistered lobbyists and the duties of lobbyists; establishing criminal liabilities and fines
9 for violations of the requirements applicable to such foreign principals or their agents.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. LOBBYISTS.

§6B-3-1. Definitions.

1 As used in this article, unless the context in which used clearly indicates otherwise:

2 (1) "Agent of a Foreign Principal" and "foreign principal" shall mean the same as those
3 terms are defined in §6B-3A-1 of this code.

4 (1)(2) "Compensation" means money or any other thing of value received or to be received
5 by a lobbyist from an employer for services rendered.

6 (2)(3) "Employer" or "lobbyist's employer" means any person who employs or retains a
7 lobbyist.

8 (3)(4) "Expenditure" means payment, distribution, loan, advance deposit, reimbursement,
9 or gift of money, real or personal property or any other thing of value; or a contract, promise or
10 agreement, whether or not legally enforceable.

11 (4)(5) "Government officer or employee" means a member of the Legislature, a legislative
12 employee, the Governor and other members of the board of Public Works, heads of executive
13 departments and any other public officer or public employee under the legislative or executive
14 branch of state government who is empowered or authorized to make policy and perform

15 nonministerial functions. In the case of elected offices included herein, the term "government
16 officer or employee" includes candidates who have been elected but who have not yet assumed
17 office.

18 ~~(5)~~(6) "Legislation" means bills, resolutions, motions, amendments, nominations and other
19 matters pending or proposed in either house of the Legislature and includes any other matters that
20 may be the subject of action by either house or any committee of the Legislature and all bills or
21 resolutions that, having passed both houses, are pending approval or veto by the Governor.

22 ~~(6)~~(7) "Lobbying" or "lobbying activity" means the act of communicating with a government
23 officer or employee to promote, advocate or oppose or otherwise attempt to influence:

24 (i) The passage or defeat or the executive approval or veto of any legislation which may be
25 considered by the Legislature of this state; or

26 (ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee or
27 other delegated legislative or quasilegislative action to be taken or withheld by any executive
28 department.

29 ~~(7)~~(8) "Lobbying firm" means any business entity, including an individual contract lobbyist,
30 which meets either of the following criteria:

31 (A) The business entity receives or becomes entitled to receive any compensation, other
32 than reimbursement for reasonable travel expenses, for the purpose of lobbying on behalf of any
33 other person, and any partner, owner, officer or employee of the business entity.

34 (B) The business entity receives or becomes entitled to receive any compensation, other
35 than reimbursement for reasonable travel expenses, to communicate directly with any elected
36 state official, agency official or legislative official for the purpose of lobbying on behalf of any other
37 person.

38 ~~(8)~~(9)(A) "Lobbyist" means any individual employed by a lobbying firm or who is otherwise
39 employed or contracts for economic consideration, other than reimbursement for reasonable
40 travel expenses, to communicate directly or through his or her agents with any elective state

41 official, agency official or legislative official for the purpose of promoting, advocating, opposing or
42 otherwise attempting to influence:

43 (i) The passage or defeat or the executive approval or veto of any legislation which may be
44 considered by the Legislature of this state; or

45 (ii) The adoption or rejection of any rule, legislative rule, standard, rate, fee or other
46 delegated legislative or quasilegislative action to be taken or withheld by any executive
47 department.

48 (B) The term "lobbyist" does not include the following persons, who are exempt from the
49 registration and reporting requirements set forth in this article, unless they engage in activities
50 which would otherwise subject them to the registration and reporting requirements:

51 (i) Persons who limit their lobbying activities to appearing before public sessions of
52 committees of the Legislature, or public hearings of state agencies, are exempt.

53 (ii) Persons who limit their lobbying activities to attending receptions, dinners, parties or
54 other group functions and make no expenditure in connection with such lobbying are exempt.

55 (iii) Persons who engage in news or feature reporting activities and editorial comment as
56 working members of the press, radio or television and persons who publish or disseminate such
57 news, features or editorial comment through a newspaper, book, regularly published periodical,
58 radio station or television station are exempt.

59 (iv) Persons who lobby without compensation or other consideration, other than
60 reimbursement for reasonable travel expenses, for acting as lobbyists, who are not employed by a
61 lobbying firm or lobbyist employer, and whose total expenditures in connection with lobbying
62 activities do not exceed \$150 during any calendar year, are exempt. The exemptions contained in
63 this subparagraph and in subparagraph (ii) are intended to permit and encourage citizens of this
64 state to exercise their Constitutional rights to assemble in a peaceable manner, consult for the
65 common good, instruct their representatives, and apply for a redress of grievances. Accordingly,
66 such persons may lobby without incurring any registration or reporting obligation under this article.

67 Any person exempt under this subparagraph or subparagraph (ii) may at his or her option register
68 and report under this article.

69 (v) Persons who lobby on behalf of a nonprofit organization with regard to legislation,
70 without compensation, and who restrict their lobbying activities to no more than twenty days or
71 parts thereof during any regular session of the Legislature, are exempt. The commission may
72 promulgate a legislative rule to require registration and reporting by persons who would otherwise
73 be exempt under this subparagraph, if it determines that such rule is necessary to prevent
74 frustration of the purposes of this article. Any person exempt under this subparagraph may, at his
75 or her option, register and report under this article.

76 (vi) The Governor, members of the Governor's staff, members of the board of Public
77 Works, officers and employees of the executive branch who communicate with a member of the
78 Legislature on the request of that member, or who communicate with the Legislature, through the
79 proper official channels, requests for legislative action or appropriations which are deemed
80 necessary for the efficient conduct of the public business or which are made in the proper
81 performance of their official duties, are exempt.

82 (vii) Members of the Legislature are exempt.

83 (viii) Persons employed by the Legislature for the purpose of aiding in the preparation or
84 enactment of legislation or the performance of legislative duties are exempt.

85 (ix) Persons rendering professional services in drafting proposed legislation or in advising
86 or rendering opinions to clients as to the construction and effect of proposed or pending legislation
87 are exempt.

88 ~~(9)~~(10) "Person" means any individual, partnership, trust, estate, business trust,
89 association or corporation; any department, commission, board, publicly supported college or
90 university, division, institution, bureau or any other instrumentality of the state; or any county,
91 municipal corporation, school district or any other political subdivision of the state.

§6B-3-2. Registration of lobbyists.

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

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

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

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

13 (4) A statement as to whether the registrant is employed or retained by his or her employer
14 under any agreement, arrangement or understanding according to which the registrant's
15 compensation, or any portion of the registrant's compensation, is or will be contingent upon the
16 success of his or her lobbying activity;

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

19 (6) An appended written authorization from each of the lobbyist's employers confirming the
20 lobbyist's employment and the subjects on which the employer is to be represented; and

21 (7) All agency and/or retention or contracting for lobbying on behalf of foreign principals as
22 required by §6B-3A-1 et seq. of this code.

23 (b) Any lobbyist who receives or is to receive compensation from more than one person for
24 services as a lobbyist shall file a separate notice of representation with respect to each person
25 compensating him or her for services performed as a lobbyist. When a lobbyist whose fee for
26 lobbying with respect to the same subject is to be paid or contributed by more than one person,

27 then the lobbyist may file a single statement, in which he or she shall detail the name, business
28 address and occupation of each person paying or contributing to the fee.

29 (c) Whenever a change, modification or termination of the lobbyist's employment occurs,
30 the lobbyist shall, within one week of the change, modification or termination, furnish full
31 information regarding the change, modification or termination by filing with the commission an
32 amended registration statement.

33 (d) Each lobbyist who has registered shall file a new registration statement, revised as
34 appropriate, on the Monday preceding the second Wednesday in January of each odd-numbered
35 year and failure to do so terminates his or her authorization to lobby. Until the registration is
36 renewed, the person may not engage in lobbying activities unless he or she is otherwise exempt
37 under §6B-3-1 of this code.

38 (e) The following public officers or employees may not, during or up to one year after the
39 termination of their public employment or service, be allowed to register as lobbyists:

40 (1) Members of the Legislature;

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

43 (3) Will and pleasure professional employees of the Legislature under the direct
44 supervision of a member of the Legislature;

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

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

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

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

§6B-3-4. Reporting by lobbyists.

1 (a) A registered lobbyist shall file with the commission reports of his or her lobbying
2 activities, signed by the lobbyist. The reports shall be filed three times a year as follows:

3 (1) On or before May 15, a lobbyist shall report all lobbying activities in which he or she
4 engaged from January 1 through April 30.

5 (2) On or before September 15, a lobbyist shall report all lobbying activities in which he or
6 she engaged from May 1 through August 31.

7 (3) On or before January 15, a lobbyist shall report all lobbying activities in which he or she
8 engaged from September 1 through December 31.

9 (b) If the date on which a lobbyist expenditure report is due falls on a Saturday, Sunday or
10 legal holiday, the report will be considered timely filed if it is postmarked not later than the next
11 business day. If a registered lobbyist files a late report, the lobbyist shall pay the commission a fee
12 of \$10 for each late day, not to exceed a total of \$250. If a registered lobbyist fails to file a report or
13 to pay the required fee for filing an untimely report, the commission may, after written notice sent
14 by certified mail, return receipt requested, suspend the lobbyist's privileges as a registered
15 lobbyist until the lobbyist has satisfactorily complied with all reporting requirements and paid the
16 required fee.

17 (c)(1) Except as otherwise provided in this section, each report filed by a lobbyist shall
18 show the total amount of all expenditures for lobbying activities made or incurred by on behalf of
19 the lobbyist during the period covered by the report. The report shall also show subtotals
20 segregated according to financial category, including meals and beverages; living
21 accommodations; advertising; travel; contributions; gifts to public officials or employees or to
22 members of the immediate family of a public official or employee; and other expenses or services.

23 (2) Lobbyists are not required to report the following:

24 (A) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

25 (B) Any expenses incurred for the lobbyist's own living accommodations;

26 (C) Any expenses incurred for the lobbyist's own travel to and from public meetings or
27 hearings of the legislative and executive branches; or

28 (D) Any expenses incurred for telephone and any office expenses, including rent and
29 salaries and wages paid for staff and secretarial assistance.

30 (d) Report all agency and/or retention or contracting for lobbying on behalf of foreign
31 principals as required by §6B-3A-1 et seq. of this code.

32 ~~(d)~~(e) If a lobbyist is employed by more than one employer, the report shall show the
33 proportionate amount of the expenditures in each category incurred on behalf of each of his or her
34 employers.

35 ~~(e)~~(f) The report shall describe the subject matter of the lobbying activities in which the
36 lobbyist has been engaged during the reporting period.

37 ~~(f)~~(g) If, during the period covered by the report, the lobbyist made expenditures or
38 expenditures were made or incurred on behalf of the lobbyist in the reporting categories of meals
39 and beverages, living accommodations, travel, gifts or other expenditures, other than for those
40 expenditures governed by subsection (g) of this section, the lobbyist shall report the name of the
41 public official or employee to whom or on whose behalf the expenditures were made, the total
42 amount of the expenditures, and the subject matter of the lobbying activity, if any: *Provided*, That a
43 registered lobbyist who entertains more than one public official or public employee at a time with
44 meals and beverages complies with the provisions of this section if he or she reports the names of
45 the public officials or public employees entertained and the total amount expended for meals and
46 beverages for all of the public officials or public employees entertained: *Provided, however*, That
47 where several lobbyists join in entertaining one or more public officials or public employees at a
48 time with meals and beverages, each lobbyist complies with the provisions of this section by
49 reporting the names of the public officials or public employees entertained and his or her
50 proportionate share of the total amount expended for meals and beverages for all of the public
51 officials or public employees entertained. Under this subsection, no portion of the amount of an

52 expenditure for a dinner, party or other function sponsored by a lobbyist's employer need be
53 attributed to a particular public official or employee who attends the function if the sponsor has
54 invited to the function all the members of: (1) The Legislature; (2) either house of the Legislature;
55 (3) a standing or select committee of either house; or (4) a joint committee of the two houses of the
56 Legislature. However, the amount spent for the function shall be added to other expenditures for
57 the purpose of determining the total amount of expenditures reported under subdivision (1),
58 subsection (c) of this section: *Provided further*, That if the expenditure is for a function to which the
59 entire membership of the Legislature has been invited, the lobbyist need only report that fact, the
60 total amount of the expenditure and the subject matter of the lobbying activity.

61 ~~(g)~~(h) If, during the period covered by the report, the lobbyist made expenditures in the
62 reporting categories of meals and beverages, lodging, travel, gifts and scheduled entertainment
63 for or on behalf of a particular public official or public employee in return for the participation of the
64 public official or employee in a panel or speaking engagement at a meeting, the lobbyist shall
65 report the name of the public official or employee to whom or on whose behalf the expenditures
66 were made and the total amount of the expenditures.

§6B-3-6. Employment of unregistered persons.

1 It shall be a violation of this chapter for any person to employ for pay or any consideration,
2 or pay or agree to pay any consideration to, a person to lobby who is not registered under this
3 chapter except upon condition that such person register as a lobbyist as provided by this chapter,
4 and such person does in fact so register as soon as practicable: *Provided*, That all registration and
5 reporting required pursuant §6B-3A-1 et seq. of this code must be accomplished prior to any
6 lobbying activity conducted by, or on behalf of, a foreign principal.

§6B-3-7. Duties of lobbyists.

1 A person required to register as a lobbyist under this article also has the following
2 obligations, the violation of which constitutes cause for revocation of his or her registration and
3 termination of his or her lobbying privileges and may subject the person, and the person's

4 employer, if employer aids, abets, ratifies or confirms the violation, to other civil liabilities as
5 provided by this chapter.

6 (1) Any person required to register as a lobbyist shall obtain, preserve and make available
7 for inspection by the Commission at any time all accounts, bills, receipts, books, papers and
8 documents necessary to substantiate the financial reports required to be made under this article
9 for a period of at least two years from the date of the filing of the statement to which those items
10 relate: *Provided*, That if a lobbyist is required under the terms of his or her employment contract to
11 turn any records over to his or her employer, responsibility for the preservation of the records
12 under this subsection shall rest with the employer.

13 (2) In addition, a person required to register as a lobbyist may not:

14 (A) Engage in any lobbying activity before registering as a lobbyist;

15 (B) Engage in any activity prohibited by or in violation of §6B-3A-1 et seq. of this code;

16 ~~(B)~~(C) Knowingly deceive or attempt to deceive any government officer or employee as to
17 any fact pertaining to a matter which is the subject of lobbying activity;

18 ~~(C)~~(D) Cause or influence the introduction of any legislation for the purpose of thereafter
19 being employed to secure its defeat;

20 ~~(D)~~(E) Exercise any undue influence, extortion or unlawful retaliation upon any
21 government officer or employee by reason of the government officer or employee's position with
22 respect to, or his or her vote upon, any matter which is the subject of lobbying activity;

23 ~~(E)~~(F) Exercise undue influence upon any legislator or other privately employed
24 government officer or employee through communications with the person's employer;

25 ~~(F)~~(G) Give a gift to any government officer or employee in excess of or in violation of any
26 limitations on gifts set forth in §6B-2-5 of this code or give any gift, whether lawful or unlawful, to a
27 government officer or employee without the government officer or employee's knowledge and
28 consent.

29 (H) Fail to exercise due diligence to identify:

30 (i) any person who acts as an agent, representative, employee, or servant, or any person
31 who acts in any other capacity at the order, request, or under the direction or control, of a foreign
32 principal or of a person any of whose activities are directly or indirectly supervised, directed,
33 controlled, financed, or subsidized in whole or in major part by a foreign principal; or

34 (ii) the ultimate controlling corporate ownership of any business or other entity lobbying, or
35 principal of any corporate ownership of any business entity lobbying, on behalf of whom the
36 person has been engaged to lobby to any representative of the government of West Virginia or
37 entities under the jurisdiction of the government of West Virginia in order to identify the existence
38 of any indirect foreign ownership interest required to be disclosed by §6B-3A-1 et seq. of this code:
39 Provided, That the exemptions from the definition of "agent of a foreign principal" in §6B-3A-1(d) of
40 this Code shall also qualify the requirements of this section.

ARTICLE 3A. FOREIGN AGENTS REGISTRATION ACT.

§6B-3A-1. Definitions.

1 As used in and for the purposes of this article—

2 (a) Except as otherwise provided in §6B-3A-1(d) of this code, the term "agent of a foreign
3 principal" means—

4 (1) Any person who acts as an agent, representative, employee, or servant, or any person
5 who acts in any other capacity at the order, request, or under the direction or control, of a foreign
6 principal or of a person any of whose activities are directly or indirectly supervised, directed,
7 controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly
8 or through any other person—

9 (i) Engages within the United States, and specifically within the State of West Virginia, in
10 political activities for or in the interests of such foreign principal;

11 (ii) Acts within the United States, and specifically within the State of West Virginia, as a
12 public relations counsel, publicity agent, information service employee or political consultant for or
13 in the interests of such foreign principal;

14 (iii) Within the United States, and specifically within the State of West Virginia, solicits,
15 collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the
16 interest of such foreign principal; or

17 (iv) Within the United States, and specifically within the State of West Virginia, represents
18 the interests of such foreign principal before any agency or official of the Government of the United
19 States, and/or the Government of the State of West Virginia; and

20 (2) Any person who agrees, consents, assumes or purports to act as, or who is or holds
21 himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign
22 principal as defined in §6B-3A-1(c)(1) of this code.

23 (3) The term "agent of a foreign principal" does not include any news or press service or
24 association organized under the laws of the United States or of any State or other place subject to
25 the jurisdiction of the United States; or, any newspaper, magazine, periodical, or other publication
26 for which there is on file with the United States Postal Service information in compliance with
27 section 3611 of Title 39 of the United States Code, published in the United States, solely by virtue
28 of any bona fide news or journalistic activities, including the solicitation or acceptance of
29 advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 percent
30 beneficially owned by, and its officers and directors, if any, are citizens of the United States, and
31 such news or press service or association, newspaper, magazine, periodical, or other publication,
32 is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are
33 determined by any foreign principal defined in §6B-3A-1(b) of this code, or, by any agent of a
34 foreign principal required to register under the provisions of this article;

35 (b) The term "foreign political party" includes any organization or any other combination of
36 individuals in a country other than the United States, or any unit or branch thereof, having for an
37 aim or purpose, or, which is engaged in any activity devoted in whole, or in part, to the
38 establishment, administration, control, or acquisition of administration or control, of a government

39 of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or
40 public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

41 (c) The term "foreign principal" includes—

42 (1) A government of a foreign country or a foreign political party;

43 (2) A person outside of the United States, unless it is established that such person is an
44 individual and a citizen of and domiciled within the United States, or that such person is not an
45 individual and is organized under or created by the laws of the United States or of any State or
46 other place subject to the jurisdiction of the United States and has its principal place of business
47 within the United States; and

48 (3) A partnership, association, corporation, organization, or other combination of persons
49 organized under the laws of or having its principal place of business in a foreign country.

50 (d) The term "government of a foreign country" includes any person or group of persons
51 exercising sovereign de facto or de jure political jurisdiction over any country, or acting on behalf of
52 a foreign government, other than the United States, or over any part of such country, and includes
53 any subdivision of any such group and any group or agency to which such sovereign de facto or de
54 jure authority or functions are directly or indirectly delegated. Such term shall include any faction or
55 body of insurgents within a country assuming to exercise governmental authority whether such
56 faction or body of insurgents has or has not been recognized by the United States;

57 (e) The term "information-service employee" includes any person who is engaged in
58 furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to
59 the political, industrial, employment, economic, social, cultural, or other benefits, advantages,
60 facts, or conditions of any country other than the United States, or of any government of a foreign
61 country, or of a foreign political party or of a partnership, association, corporation, organization, or
62 other combination of individuals organized under the laws of, or having its principal place of
63 business in, a foreign country;

64 (f) The term "person" includes an individual, partnership, association, corporation,
65 organization, or any other combination of individuals;

66 (g) The term "political activities" means any activity that the person engaging in believes
67 will, or that the person intends to, in any way influence any agency or official of the Government of
68 the United States, and/or the Government of the State of West Virginia, or any section of the public
69 within the United States with reference to formulating, adopting, or changing the domestic or
70 foreign policies of the United States, or with reference to the political or public interests, policies, or
71 relations of a government of a foreign country or a foreign political party;

72 (h) The term "political consultant" means any person who engages in informing or advising
73 any other person with reference to the domestic or foreign policies of the United States, and/or the
74 Government of the State of West Virginia, or the political or public interest, policies, or relations of
75 a foreign country or of a foreign political party;

76 (i) The term "public-relations counsel" includes any person who engages directly or
77 indirectly in informing, advising, or, in any way representing, a principal in any public relations
78 matter pertaining to political or public interests, policies, or relations of such principal;

79 (j) The term "publicity agent" includes any person who engages directly or indirectly in the
80 publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any
81 kind, including publication by means of advertising, books, periodicals, newspapers, lectures,
82 broadcasts, motion pictures, through any internet publication, or other means;

83 (k) The term "registration statement" means the registration statement required to be filed
84 with the Secretary of State of West Virginia under §6B-3A-2(a) of this code, and any supplements
85 thereto required to be filed under §6B-3A-2(b) of this code, and includes all documents and papers
86 required to be filed therewith or amendatory thereof or supplemental thereto, whether attached
87 thereto or incorporated therein by reference;

88 (l) The term "United States", when used in a geographical sense, includes the several
89 States of, the District of Columbia, the Territories, the insular possessions, and all other places
90 now or hereafter subject to the civil or military jurisdiction of, the United States.

§6B-3A-2. Requirements as to registration.

1 (a) No person shall act as an agent of a foreign principal unless he has filed with the
2 Secretary of State of West Virginia a true and complete registration statement and supplements
3 thereto as required by §§6B-3A-2 (a) and (b) of this code or unless he or she is exempt from
4 registration under the provisions of this article. Except as hereinafter provided, every person who
5 becomes an agent of a foreign principal shall, within ten days thereafter, file with the Secretary of
6 State of West Virginia, in duplicate, a registration statement, under oath on a form prescribed by
7 the Secretary of State of West Virginia. The obligation of an agent of a foreign principal to file a
8 registration statement shall, after the tenth day of his becoming such agent, continue from day to
9 day, and termination of such status shall not relieve such agent from his or her obligation to file a
10 registration statement for the period during which he or she was an agent of a foreign principal.
11 The registration statement shall include the following, which shall be regarded as material for the
12 purposes of this article:

13 (1) Registrant's name, principal business address, all other business addresses, and all
14 internet Uniform Resource Locator (URL) web addresses, and the principal email addresses, for
15 itself and all corporate parent and subsidiary entities in the United States or elsewhere, and all
16 residence addresses, if any;

17 (2) Status of the registrant; if an individual, nationality; if a partnership, name, residence
18 addresses, and nationality of each partner and a true and complete copy of its articles of co-
19 partnership; if an association, corporation, organization, or any other combination of individuals,
20 the name, residence addresses, and nationality of each director and officer and of each person
21 performing the functions of a director or officer and a true and complete copy of its charter, articles
22 of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every

23 other instrument or document and a statement of the terms and conditions of every oral agreement
24 relating to its organization, powers, and purposes; and a statement of its ownership and control;

25 (3) A comprehensive statement of the nature of registrant's business; a complete list of
26 registrant's employees and a statement of the nature of the work of each; the name and address of
27 every foreign principal for whom the registrant is acting, assuming or purporting to act or has
28 agreed to act; the character of the business or other activities of every such foreign principal, and,
29 if any such foreign principal be other than a natural person, a statement of the ownership and
30 control of each; and the extent, if any, to which each such foreign principal is supervised, directed,
31 owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign
32 country or foreign political party, or by any other foreign principal;

33 (4) Copies of each written agreement and the terms and conditions of each oral
34 agreement, including all modifications of such agreements, or, where no contract exists, a full
35 statement of all the circumstances, by reason of which the registrant is an agent of a foreign
36 principal; a comprehensive statement of the nature and method of performance of each such
37 contract, and of the existing and proposed activity or activities engaged in or to be engaged in by
38 the registrant as agent of a foreign principal for each such foreign principal, including a detailed
39 statement of any such activity which is a political activity;

40 (5) The nature and amount of contributions, income, money, or thing of value, if any, that
41 the registrant has received within the preceding year from each such foreign principal, either as
42 compensation or for disbursement or otherwise, and the form and time of each such payment and
43 from whom received;

44 (6) A detailed statement of every activity which the registrant is performing or is assuming
45 or purporting or has agreed to perform for himself or any other person other than a foreign principal
46 and which requires his registration hereunder, including a detailed statement of any such activity
47 which is a political activity;

48 (7) The name, business, and residence addresses, and if an individual, the nationality, of
49 any person other than a foreign principal for whom the registrant is acting, assuming or purporting
50 to act or has agreed to act under such circumstances as require his registration hereunder; the
51 extent to which each such person is supervised, directed, owned, controlled, financed, or
52 subsidized, in whole or in part, by any government of a foreign country or foreign political party or
53 by any other foreign principal; and the nature and amount of contributions, income, money, or thing
54 of value, if any, that the registrant has received during the preceding year from each such person in
55 connection with any of the activities referred to in §6B-3A-2(a) of this code, either as compensation
56 or for disbursement or otherwise, and the form and time of each such payment and from whom
57 received;

58 (8) A detailed statement of the money and other things of value spent or disposed of by the
59 registrant during the preceding year in furtherance of or in connection with activities which require
60 his or her registration hereunder and which have been undertaken by him or her either as an agent
61 of a foreign principal or for himself or herself or any other person or in connection with any activities
62 relating to his or her becoming an agent of such principal, and a detailed statement of any
63 contributions of money or other things of value made by him or her during the preceding year in
64 connection with an election to any political office or in connection with any primary election,
65 convention, or caucus held to select candidates for any political office;

66 (9) Copies of each written agreement and the terms and conditions of each oral
67 agreement, including all modifications of such agreements, or, where no contract exists, a full
68 statement of all the circumstances, by reason of which the registrant is performing or assuming or
69 purporting or has agreed to perform for himself or herself or for a foreign principal or for any person
70 other than a foreign principal any activities which require his or her registration hereunder;

71 (10) Such other statements, information, or documents pertinent to the purposes of this
72 article as the Secretary of State of West Virginia, having due regard for the national security and
73 the public interest, may from time to time require;

74 (11) Such further statements and such further copies of documents as are necessary to
75 make the statements made in the registration statement and supplements thereto, and the copies
76 of documents furnished therewith, not misleading.

77 (b) Every agent of a foreign principal who has filed a registration statement required by
78 §6B-3A-2(a) of this code, within thirty days after the expiration of each period of six months
79 succeeding such filing, file with the Secretary of State of West Virginia a supplement thereto under
80 oath, on a form prescribed by the Secretary of State of West Virginia, which shall set forth with
81 respect to such preceding six months' period such facts as the Secretary of State of West Virginia,
82 having due regard for the national security and the public interest, may deem necessary to make
83 the information required under this section accurate, complete, and current with respect to such
84 period. In connection with the information furnished under subdivisions (3), (4), (6), and (9) of
85 §6B-3A-2(a) of this code, the registrant shall give notice to the Secretary of State of West Virginia
86 of any changes therein within ten days after such changes occur. If the Secretary of State of West
87 Virginia, having due regard for the national security and the public interest, determines that it is
88 necessary to carry out the purposes of this article, he or she may, in any particular case, require
89 supplements to the registration statement to be filed at more frequent intervals in respect to all or
90 particular items of information to be furnished.

91 (c) The registration statement and supplements thereto shall be executed under oath as
92 follows: If the registrant is an individual, by him or her; if the registrant is a partnership, by all the
93 partners thereof; if the registrant is a person other than an individual or a partnership, by all the
94 officers thereof or persons performing the functions of officers or by all the board of directors
95 thereof or persons performing the functions of directors, if any.

96 (d) The fact that a registration statement or supplement thereto has been filed shall not
97 necessarily be deemed a full compliance with this article and the regulations thereunder on the
98 part of the registrant; nor shall it indicate that the Secretary of State of West Virginia has in any way
99 passed upon the merits of such registration statement or supplement thereto; nor shall it preclude

100 prosecution, as provided for in this article, for willful failure to file a registration statement or
101 supplement thereto when due or for a willful false statement of a material fact therein or the willful
102 omission of a material fact required to be stated therein or the willful omission of a material fact or
103 copy of a material document necessary to make the statements made in a registration statement
104 and supplements thereto, and the copies of documents furnished therewith, not misleading.

105 (e) The Secretary of State of West Virginia may, by regulation, provide for the exemption
106 from the requirement of furnishing any of the information required by this section of any agent of a
107 foreign principal, where by reason of the nature of the functions or activities of such person the
108 Secretary of State of West Virginia, having due regard for the national security and the public
109 interest, determines that such registration, or the furnishing of such information, as the case may
110 be, is not necessary to carry out the purposes of this article.

§6B-3A-3. Exemptions.

1 The requirements of section §6B-3A-2(a) of this code shall not apply to the following
2 agents of foreign principals:

3 (a) A duly accredited diplomatic or consular officer of a foreign government who is so
4 recognized by the United States Department of State, while said officer is engaged exclusively in
5 activities which are recognized by the Department of State as being within the scope of the
6 functions of such officer;

7 (b) Any official of a foreign government, if such government is recognized by the United
8 States, who is not a public-relations counsel, publicity agent, information-service employee, or a
9 citizen of the United States, whose name and status and the character of whose duties as such
10 official are of public record in the Department of State, while said official is engaged exclusively in
11 activities which are recognized by the Department of State as being within the scope of the
12 functions of such official;

13 (c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or
14 consular officer of a foreign government who is so recognized by the Department of State, other

15 than a public-relations counsel, publicity agent, or information-service employee, whose name
16 and status and the character of whose duties as such member or employee are of public record in
17 the Department of State, while said member or employee is engaged exclusively in the
18 performance of activities which are recognized by the Department of State as being within the
19 scope of the functions of such member or employee;

20 (d) Any person engaging or agreeing to engage only.

21 (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of
22 such foreign principal; or

23 (2) in other activities not serving predominantly a foreign interest; or

24 (3) in the soliciting or collecting of funds and contributions within the United States to be
25 used only for medical aid and assistance, or for food and clothing to relieve human suffering, if
26 such solicitation or collection of funds and contributions is in accordance with and subject to all
27 applicable provisions of federal law, and such rules and regulations as may be prescribed
28 thereunder;

29 (f) Any person, or employee of such person, whose foreign principal is a government of a
30 foreign country the defense of which the President deems vital to the defense of the United States
31 while:

32 (1) such person or employee engages only in activities which are in furtherance of the
33 policies, public interest, or national defense both of such government and of the Government of
34 the United States, and are not intended to conflict with any of the domestic or foreign policies of the
35 Government of the United States, and

36 (2) each communication or expression by such person or employee which he intends to, or
37 has reason to believe will, be published, disseminated, or circulated among any section of the
38 public, or portion thereof, within the United States, is a part of such activities and is believed by
39 such person to be truthful and accurate and the identity of such person as an agent of such foreign
40 principal is disclosed therein.

41 (g) Any person qualified to practice law, insofar as he or she engages or agrees to engage
42 in the legal representation of a disclosed foreign principal before any court of law or any agency of
43 the Government of the State of West Virginia: *Provided*, That for the purposes of this subsection
44 legal representation does not include attempts to influence or persuade agency personnel or
45 officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries,
46 investigations, or proceedings, or agency proceedings required by statute or regulation to be
47 conducted on the record.

48 (h) Any agent of a person described in section §6B-3A-1(b)(2) of this code or an entity
49 described in section §6B-3A-1(b)(3) of this code if the agent has engaged in lobbying activities and
50 has registered under §6B-3-1 *et seq.* of this code in connection with the agent's representation of
51 such person or entity.

§6B-3A-4. Filing and labeling of informational materials.

1 (a) Every person within the United States who is an agent of a foreign principal and
2 required to register under the provisions of this article and who transmits or causes to be
3 transmitted in the United States mails or by any means or instrumentality of interstate or foreign
4 commerce any informational materials to, within or from the State of West Virginia for or in the
5 interests of such foreign principal, which is reasonably adapted to being, or which he or she
6 believes will be, or which he or she intends to be, disseminated, or circulated among two or more
7 persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, file with
8 the Secretary of State of West Virginia two copies thereof.

9 (b) It shall be unlawful for any person within the United States who is an agent of a foreign
10 principal and required to register under the provisions of this article to transmit or cause to be
11 transmitted in the United States mails or by any means or instrumentality of interstate or foreign
12 commerce any informational materials to, within or from the State of West Virginia for or in the
13 interests of such foreign principal without placing in such informational materials a conspicuous
14 statement that the materials are distributed by the agent on behalf of the foreign principal.

15 (c) It shall be unlawful for any person within the United States who is an agent of a foreign
16 principal required to register under the provisions of this article to transmit, convey, or otherwise
17 furnish to any agency or official of any Government entity constituted within the State of West
18 Virginia, for or in the interests of such foreign principal any political propaganda or to request from
19 any such agency or official for or in the interests of such foreign principal any information or advice
20 with respect to any matter pertaining to the political or public interests, policies or relations of a
21 foreign country or of a political party or pertaining to the policies of the State of West Virginia
22 unless the propaganda or the request is prefaced or accompanied by a true and accurate
23 statement to the effect that such person is registered as an agent of such foreign principal under
24 this article.

25 (d) Whenever any agent of a foreign principal required to register under this article appears
26 before any committee of the Legislature of the State of West Virginia to testify for or in the interests
27 of such foreign principal, he or she shall, at the time of such appearance, furnish the committee
28 with a copy of his or her most recent registration statement filed with the Secretary of State of West
29 Virginia as an agent of such foreign principal for inclusion in the records of the committee as part of
30 his testimony.

§6B-3A-5. Maintenance of books and records.

1 Every agent of a foreign principal registered under this article shall keep and preserve
2 while he or she is an agent of a foreign principal such books of account and other records with
3 respect to all his or her activities, the disclosure of which is required under the provisions of this
4 article, in accordance with such business and accounting practices, as the Secretary of State of
5 West Virginia, having due regard for the national security and the public interest, may by regulation
6 prescribe as necessary or appropriate for the enforcement of the provisions of this article and shall
7 preserve the same for a period of three years following the termination of such status. Until
8 regulations are in effect under this section every agent of a foreign principal shall keep books of
9 account and shall preserve all written records with respect to his activities. Such books and

10 records shall be open at all reasonable times to the inspection of any official charged with the
11 enforcement of this article. It shall be unlawful for any person willfully to conceal, destroy,
12 obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to
13 cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records
14 required to be kept under the provisions of this section.

§6B-3A-6. Public examination of official records.

1 (a) The Secretary of State of West Virginia shall retain in permanent form one copy of all
2 registration statements furnished under this article, and the same shall be public records and open
3 to public examination and inspection at such reasonable hours, under such regulations, as the
4 Secretary of State of West Virginia may prescribe, and copies of the same shall be furnished to
5 every applicant at such reasonable fee as the Secretary of State of West Virginia may prescribe.
6 The Secretary of State of West Virginia may withdraw from public examination the registration
7 statement and other statements of any agent of a foreign principal whose activities have ceased to
8 be of a character which requires registration under the provisions of this article.

9 (b) The Secretary of State of West Virginia is authorized to furnish to departments and
10 agencies in the executive branch and committees of the Legislature of the State of West Virginia
11 such information obtained by him or her in the administration of this article, including the names of
12 registrants under this article, copies of registration statements, or parts thereof, or other
13 documents or information filed under this article, as may be appropriate in the light of the purposes
14 of this article.

§6B-3A-7. Liability of officers.

1 (a) Each officer, or person performing the functions of an officer, and each director, or
2 person performing the functions of a director, of an agent of a foreign principal which is not an
3 individual shall be under obligation to cause such agent to execute and file a registration statement
4 and supplements thereto as and when such filing is required under §§6B-3A-2(a) and (b) of this
5 code and shall also be under obligation to cause such agent to comply with all the requirements of

6 sections §§6B-3A-4(a) and (b) and §6B-3A-5 of this code and all other requirements of this article.
7 Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer,
8 or person performing the functions of an officer, or any director, or person performing the functions
9 of a director, from complying with the provisions of this section. In case of failure of any such agent
10 of a foreign principal to comply with any of the requirements of this article, each of its officers, or
11 persons performing the functions of officers, and each of its directors, or persons performing the
12 functions of directors, shall be subject to prosecution therefor.

13 (b) No individual registered as a foreign agent may serve in any capacity in any
14 government entity in the State of West Virginia or be elected to any office in the State of West
15 Virginia.

§6B-3A-8. Enforcement and penalties.

1 (a) Any person who—
2 (1) Willfully violates any provision of this article or any regulation thereunder, or
3 (2) In any registration statement or supplement thereto or in any other document filed with
4 or furnished to the Secretary of State of West Virginia under the provisions of this article willfully
5 makes a false statement of a material fact or willfully omits any material fact required to be stated
6 therein or willfully omits a material fact or a copy of a material document necessary to make the
7 statements therein and the copies of documents furnished therewith not misleading, shall, upon
8 conviction thereof, for a first offense thereunder be punished by a fine of not more than \$5,000 or
9 imprisonment for not more than three months, or both; for a second offense thereunder by a fine of
10 not more than \$10,000 or by imprisonment for not more than six months, or both; and for a third or
11 subsequent offense, by a fine of not more than \$100,000 or by imprisonment for not more than one
12 year, or both.

13 (b) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any
14 provision of this article or any regulation thereunder shall, upon sentencing for such conviction by

15 the court in which the case was tried, be transferred to the custody of United States Immigration
16 and Customs Enforcement for disposition.

17 (c) Whenever in the judgment of the Secretary of State of West Virginia any person is
18 engaged in or about to engage in any acts which constitute or will constitute a violation of any
19 provision of this article, or regulations issued thereunder, or whenever any agent of a foreign
20 principal fails to comply with any of the provisions of this article or the regulations issued
21 thereunder, or otherwise is in violation of the article, the Secretary of State of West Virginia may
22 make application to the appropriate courts in the State of West Virginia for an order enjoining such
23 acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an
24 order requiring compliance with any appropriate provision of the article or regulation thereunder.
25 The courts of the State of West Virginia shall have jurisdiction and authority to issue a temporary or
26 permanent injunction, restraining order or such other order which it may deem proper.

27 (d) If the Secretary of State of West Virginia determines that a registration statement does
28 not comply with the requirements of this article or the regulations issued thereunder, he or she
29 shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall
30 be unlawful for any person to act as an agent of a foreign principal at any time ten days or more
31 after receipt of such notification without filing an amended registration statement in full compliance
32 with the requirements of this article and the regulations issued thereunder.

33 (d) It shall be unlawful for any agent of a foreign principal required to register under this
34 article to be a party to any contract, agreement, or understanding, either express or implied, with
35 such foreign principal pursuant to which the amount or payment of the compensation, fee, or other
36 remuneration of such agent is contingent in whole or in part upon the success of any political
37 activities carried on by such agent.

§6B-3A-9. Applicability of the act.

1 This article shall be applicable in the State of West Virginia.

§6B-3A-10. Rules and regulations.

1 The Secretary of State of West Virginia may at any time make, prescribe, amend, and
2 rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions
3 of this article.

§6B-3A-11. Reports to the Legislature of the State of West Virginia.

1 The Secretary of State of West Virginia shall every six months report each January to the
2 Legislature of The State Of West Virginia concerning administration of this article, including
3 registrations filed pursuant to this article, and the nature, sources and content of political
4 propaganda disseminated and distributed, as well as other activities identified in this article.

NOTE: The purpose of this bill is to revise and/or establish requirements, prohibitions and regulation of foreign principals or agents of foreign principals, lobbying by or on behalf of such foreign principals or their agents, and to establish criminal liabilities and fines for violations of the requirements applicable to such foreign principals or their agents.

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