

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4298**

5  
6 (By Delegates Manchin and Morgan)

7 [Passed March 8, 2014; in effect ninety days from passage.]

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9  
10 AN ACT to amend and reenact §6B-2-1 of the Code of West Virginia,  
11 1931, as amended, relating to the West Virginia Ethics  
12 Commission; continuing the Ethics Commission; changing the  
13 requirements of who can be a member of the Ethics Commission;  
14 reducing the number of members on the Ethics Commission to  
15 nine; and changing the composition of the membership.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §6B-2-1 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

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

24 **§6B-2-1. West Virginia Ethics Commission created; members;**

1                   **appointment, term of office and oath; compensation**  
2                   **and reimbursement for expenses; meetings and quorum.**

3           (a) The West Virginia Ethics Commission is continued. The  
4 members of the commission shall be appointed by the Governor with  
5 the advice and consent of the Senate.

6           (b) No person may be appointed to the commission or continue  
7 to serve as a member of the commission who:

8           (1) Holds elected or appointed office under the government of  
9 the United States, the State of West Virginia or any of its  
10 political subdivisions;

11          (2) Is a candidate for any political office;

12          (3) Is otherwise subject to the provisions of this chapter  
13 other than by reason of his or her appointment to or service on the  
14 commission; or

15          (4) Holds any political party office or participates in a  
16 campaign relating to a referendum or other ballot issue: *Provided,*  
17 That a member may contribute to a political campaign.

18          (c) Commencing July 1, 2014, the Ethics Commission shall  
19 consist of the following nine members, appointed with staggered  
20 terms:

21          (1) One member who served as a member of the West Virginia  
22 Legislature;

23          (2) One member who served as an elected or appointed county  
24 official;

25          (3) One member who served as an elected or appointed municipal

1 official;

2 (4) One member who served as an elected county school board  
3 member;

4 (5) One member from a rural area; and

5 (6) Four citizen members.

6 (d) Any Commission member in office on June 30, 2014, who  
7 meets one of the categories for membership set out in subsection  
8 (c) of this section, may be reappointed. No more than five members  
9 of the Commission shall be of the same political party and no more  
10 than four members shall be from the same congressional district.

11 (e) After the initial staggered terms, the term of office for  
12 a Commission member is five years. No member shall serve more than  
13 two consecutive full or partial terms. No person may be reappointed  
14 to the commission until at least two years have elapsed after the  
15 completion of the second consecutive term. A member may continue  
16 to serve until a successor has been appointed and qualified.

17 (f) All appointments shall be made by the Governor in a timely  
18 manner so as not to create a vacancy for longer than sixty days.

19 (g) Each member must be a resident of this state during the  
20 appointment term.

21 (h) Five members of the commission constitutes a quorum.

22 (i) Each member of the commission shall take and subscribe to  
23 the oath or affirmation required pursuant to section five, article  
24 IV of the Constitution of West Virginia.

25 (j) A member may be removed by the Governor for substantial

1 neglect of duty, gross misconduct in office or a violation of this  
2 chapter, after written notice and opportunity for reply.

3       (k) The commission, as appointed on July 1, 2014, shall meet  
4 before August 1, 2014, at a time and place to be determined by the  
5 Governor, who shall designate a member to preside at that meeting  
6 until a chairperson is elected. At the first meeting, the  
7 commission shall elect a chairperson and any other officers as are  
8 necessary. The commission shall within ninety days after the first  
9 meeting adopt rules for its procedures. The commission may use the  
10 rules in place on July 1, 2014, until those rules are amended or  
11 revoked.

12       (l) Members of the commission shall receive the same  
13 compensation and expense reimbursement as is paid to members of the  
14 Legislature for their interim duties as recommended by the Citizens  
15 Legislative Compensation Commission and authorized by law for each  
16 day or portion thereof engaged in the discharge of official duties:  
17 *Provided*, That to be eligible for compensation and expense  
18 reimbursement, the member must participate in a meeting or  
19 adjudicatory session: *Provided, however*, That the member is not  
20 eligible for expense reimbursement if he or she does not attend a  
21 meeting or adjudicatory session in person.

22       (m) The commission shall appoint an executive director to  
23 assist the commission in carrying out its functions in accordance  
24 with commission rules and with applicable law. The executive  
25 director shall be paid a salary fixed by the commission or as

1 otherwise provided by law. The commission shall appoint and  
2 discharge counsel and employees and shall fix the compensation of  
3 employees and prescribe their duties. Counsel to the commission  
4 shall advise the commission on all legal matters and on the  
5 instruction of the commission may commence appropriate civil  
6 actions: *Provided*, That no counsel shall both advise the  
7 commission and act in a representative capacity in any proceeding.

8 (n) The commission may delegate authority to the chairperson  
9 or the executive director to act in the name of the commission  
10 between meetings of the commission, except that the commission  
11 shall not delegate the power to hold hearings and determine  
12 violations to the chairperson or the executive director.

13 (o) The principal office of the commission shall be in the  
14 seat of government, but it or its designated subcommittees may meet  
15 and exercise its power at any other place in the state. Meetings  
16 of the commission shall be public unless:

17 (1) They are required to be private by the provisions of this  
18 chapter relating to confidentiality; or

19 (2) They involve discussions of commission personnel, planned  
20 or ongoing litigation, and planned or ongoing investigations.

21 (p) Meetings of the commission shall be upon the call of the  
22 chairperson and may be conducted by telephonic or other electronic  
23 conferencing means: *Provided*, That telephone or other electronic  
24 conferencing, and voting are not permitted when the commission is  
25 acting as a hearing board under this article, or when the Probable

1 Cause Review Board meets to receive an oral response as authorized  
2 this article. Members shall be given notice of meetings held by  
3 telephone or other electronic conferencing in the same manner as  
4 meetings at which the members are required to attend in person.  
5 Telephone or other electronic conferences shall be electronically  
6 recorded and the recordings shall be retained by the commission in  
7 accordance with its record retention policy.