

**H. B. 4298**

(By Delegates Manchin and Morgan)  
[Introduced January 24, 2014; referred to the  
Committee on Government Organization then the Judiciary.]

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

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

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

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

**§6B-2-1. West Virginia Ethics Commission created; members;  
appointment, term of office and oath; compensation**

1                   **and reimbursement for expenses; meetings and quorum.**

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

19           (b) At least ~~two~~ one member of the commission shall have  
20 served as a member of the West Virginia Legislature; at least ~~two~~  
21 one member of the commission shall have been employed in a  
22 full-time elected or appointed office in state government; at least  
23 one member shall have served as an elected official in a county or  
24 municipal government or on a county school board; at least one

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

8       (c) Of the initial appointments made to the commission, two  
9 shall be for a term ending one year after the effective date of  
10 this section, two for a term ending two years after the effective  
11 date of this section, two for a term ending three years after the  
12 effective date of this section, three for a term ending four years  
13 after the effective date of this section and three shall be for  
14 terms ending five years after the effective date of this section.  
15 Thereafter, terms of office shall be for five years, each term  
16 ending on the same day of the same month of the year as did the  
17 term which it succeeds. Each member shall hold office from the  
18 date of his or her appointment until the end of the term for which  
19 he or she was appointed or until his or her successor qualifies for  
20 office. When a vacancy occurs as a result of death, resignation or  
21 removal in the membership of this commission, it shall be filled by  
22 appointment within thirty days of the vacancy for the unexpired  
23 portion of the term in the same manner as original appointments.  
24 No member shall serve more than two consecutive full or partial

1 terms and no person may be reappointed to the commission until at  
2 least two years have elapsed after the completion of a second  
3 successive term.

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

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

17 (f) Seven members of the commission shall constitute a quorum,  
18 except that when the commission is sitting as a hearing board  
19 pursuant to section four of this article, then five members shall  
20 constitute a quorum. Except as may be otherwise provided in this  
21 article, a majority of the total membership shall be necessary to  
22 act at all times.

23 (g) Members of the commission shall receive the same  
24 compensation and expense reimbursement as is paid to members of the

1 Legislature for their interim duties as recommended by the Citizens  
2 Legislative Compensation Commission and authorized by law for each  
3 day or portion thereof engaged in the discharge of official duties:  
4 *Provided*, That to be eligible for compensation and expense  
5 reimbursement, the member must participate in a meeting or  
6 adjudicatory session: *Provided, however*, That the member is not  
7 eligible for expense reimbursement if he or she does not attend a  
8 meeting or adjudicatory session in person.

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

20 (i) The commission may delegate authority to the chairman or  
21 executive director to act in the name of the commission between  
22 meetings of the commission, except that the commission shall not  
23 delegate the power to hold hearings and determine violations to the  
24 chairman or executive director.

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

9           (k) Meetings of the commission shall be upon the call of the  
10 chair and may be conducted by telephonic or other electronic  
11 conferencing: *Provided*, That telephone or other electronic  
12 conferencing and voting are not permitted when the commission is  
13 acting as a hearing board under section four of this article or  
14 when the Probable Cause Review Board meets to receive an oral  
15 response as authorized under subsection (d), section four of this  
16 article. Members shall be given notice of meetings held by  
17 telephone or other electronic conferencing in the same manner as  
18 meetings at which the members are required to attend in person.  
19 Telephone or other electronic conferences shall be electronically  
20 recorded and the recordings shall be retained by the commission in  
21 accordance with its record retention policy.

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

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