

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2091

BY DELEGATES KESSINGER AND FOLK

[Introduced February 8, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5A-3-10f, relating to the disclosure of interested parties to a government
 3 contract; defining terms; prohibiting contracting with a state agency unless business entity
 4 submits disclosure of interested parties; requiring submission of supplemental disclosure
 5 within thirty days of completion or termination of the contract; providing exceptions to the
 6 disclosure requirement for certain contracts; requiring the Ethics Commission create
 7 disclosure form; specifying contents to be included in the disclosure form; requiring state
 8 agencies to submit completed forms to the Ethics Commission; requiring the Ethics
 9 Commission to make disclosures publicly available; and requiring the Ethics Commission
 10 to post disclosures on the commission website when technologically able.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §5A-3-10f, to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-10f. Disclosure of interested parties to contract.

1 (a) Definitions- For purposes of this section:

2 (1) "Applicable contract" means a contract of a state agency that:

3 (A) Requires an action or vote by the governing body of the entity or agency before the
 4 contract may be signed; or

5 (B) Has a value of at least \$100,000.

6 (2) "Business entity" means any entity recognized by law through which business is
 7 conducted, including a sole proprietorship, partnership, or corporation.

8 (3) "Interested party" means a person who has a controlling interest in a business entity
 9 with whom a state agency contracts or who actively participates in facilitating the contract or
 10 negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the
 11 business entity.

12 (4) "State agency" means a board, commission, office, department, or other agency in the
13 executive, judicial, or legislative branch of state government.

14 (b) A state agency may not enter into an applicable contract with a business entity unless
15 the business entity, in accordance with this section, submits a disclosure of interested parties to
16 the state agency at the time the business entity submits the contract to the state agency for
17 signature and approval by the state agency.

18 (c) Within thirty days following the completion or termination of the applicable contract, the
19 business entity shall submit a supplemental disclosure of interested parties reflecting any new or
20 differing interested parties to the contract.

21 (d) Notwithstanding subsection (b), this section does not apply to:

22 (1) A sponsored research contract of an institution of higher education;

23 (2) An interagency contract of a state agency or an institution of higher education; or

24 (3) A contract related to health and human services if:

25 (A) The value of the contract cannot be determined at the time the contract is executed;

26 and

27 (B) Any qualified vendor is eligible for the contract.

28 (e) The disclosure of interested parties must be submitted on a form prescribed by the
29 Ethics Commission that includes:

30 (1) A list of each interested party for the contract of which the contracting business entity
31 is aware; and

32 (2) The signature of the authorized agent of the contracting business entity,
33 acknowledging that the disclosure is made under oath and under penalty of perjury.

34 (f) Not later than the 15th day after the date the state agency receives an initial or
35 supplemental disclosure of interested parties required under this section, the state agency shall
36 submit a copy of the disclosure to the Ethics Commission.

37 (g) The Ethics Commission shall make copies of the disclosures received from state

38 agencies publicly available. To the extent possible under existing technology or upon obtaining
39 sufficient technology, the Ethics Commission shall post copies of the disclosures on the
40 commission's website.

NOTE: The purpose of this bill is to require the submission of a disclosure of financially interested parties to a contract with a state agency. The bill requires the disclosure form to be filed with the state agency at the time of contracting and with the West Virginia Ethics Commission.

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