

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **Senate Bill 556**

BY SENATORS PREZIOSO, BALDWIN, BEACH, IHLENFELD,

PLYMALE, ROMANO, STOLLINGS, AND WOELFEL

[Introduced January 21, 2020; referred  
to the Committee on Government Organization; and  
then 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 to prohibiting members of the Legislature and part-time public officials from having an  
 3 interest in public contracts under certain circumstances; requiring certain disclosures; and  
 4 requiring the Ethics Commission to conduct oversight and make a public statement in  
 5 certain circumstances.

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

13 (2) Notwithstanding the general prohibition against use of office for private gain, public  
 14 officials and public employees may use bonus points acquired through participation in frequent

15 traveler programs while traveling on official government business: *Provided*, That the official's or  
16 employee's participation in such program, or acquisition of such points, does not result in  
17 additional costs to the government.

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

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

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

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

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

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

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

- 67 (A) Meals and beverages;
- 68 (B) Ceremonial gifts or awards which have insignificant monetary value;
- 69 (C) Unsolicited gifts of nominal value or trivial items of informational value;
- 70 (D) Reasonable expenses for food, travel, and lodging of the official or employee for a
- 71 meeting at which the official or employee participates in a panel or has a speaking engagement;
- 72 (E) Gifts of tickets or free admission extended to a public official or public employee to
- 73 attend charitable, cultural, or political events, if the purpose of such gift or admission is a courtesy
- 74 or ceremony customarily extended to the office;
- 75 (F) Gifts that are purely private and personal in nature; or
- 76 (G) Gifts from relatives by blood or marriage, or a member of the same household.
- 77 (3) The commission shall, through legislative rule promulgated pursuant to chapter 29A of
- 78 this code, establish guidelines for the acceptance of a reasonable honorarium by public officials
- 79 and elected officials. The rule promulgated shall be consistent with this section. Any elected public
- 80 official may accept an honorarium only when:
- 81 (A) That official is a part-time elected public official;
- 82 (B) The fee is not related to the official's public position or duties;
- 83 (C) The fee is for services provided by the public official that are related to the public
- 84 official's regular, nonpublic trade, profession, occupation, hobby, or avocation; and
- 85 (D) The honorarium is not provided in exchange for any promise or action on the part of
- 86 the public official.
- 87 (4) Nothing in this section ~~shall~~ may be construed so as to prohibit the giving of a lawful
- 88 political contribution as defined by law.
- 89 (5) The Governor or his designee may, in the name of the State of West Virginia, accept
- 90 and receive gifts from any public or private source. Any gift so obtained shall become the property
- 91 of the state and shall, within 30 days of the receipt thereof, be registered with the commission and
- 92 the Division of Culture and History.

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

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

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

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

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

109           (E) Promoting cooperation between state legislatures in the United States and legislatures  
110 in other countries.

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

119 the amount of donations received. Any solicitation by a legislative member shall contain the  
120 following disclaimer:

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

125           (7) Upon written notice to the commission, any member of the Board of Public Works may  
126 solicit donations for a regional or national organization conference or other function related to the  
127 office of the member to be held in the state for the purpose of deferring costs to the state for  
128 hosting of the conference or function. The solicitations may only be made in writing. The  
129 organization may act as fiscal agent for the conference and receive all donations. In the  
130 alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of  
131 the office of the Board of Public Works member may not be used in conjunction with the fund  
132 raising or solicitation effort. The organization for which solicitations are being made shall file with  
133 the Joint Committee on Government and Finance, with the Secretary of State for publication in  
134 the State Register as provided in §29A-2-1 *et seq.* of this code and with the commission, copies  
135 of letters, brochures, and other solicitation documents, along with a complete list of the names  
136 and last known addresses of all donors and the amount of donations received. Any solicitation by  
137 a member of the Board of Public Works shall contain the following disclaimer: “This solicitation is  
138 endorsed by (name of member of Board of Public Works.) This endorsement does not imply  
139 support of the soliciting organization, nor of the sponsors who may respond to the solicitation.  
140 Copies of all solicitations are on file with the West Virginia Legislature’s Joint Committee on  
141 Government and Finance, with the West Virginia Secretary of State and with the West Virginia  
142 Ethics Commission and are available for public review.” Any moneys in excess of those donations  
143 needed for the conference or function shall be deposited in the Capitol Dome and Capitol  
144 Improvement Fund established in §5A-4-2 *et seq.* of this code.

145 (d) Interests in public contracts. — (1) In addition to the provisions of §61-10-15 of this  
146 code, no elected or appointed public official or public employee or member of his or her immediate  
147 family or business with which he or she is associated may be a party to or have an interest in the  
148 profits or benefits of a contract which the official or employee may have direct authority to enter  
149 into, or over which he or she may have control: *Provided*, That nothing herein shall be construed  
150 to prevent or make unlawful the employment of any person with any governmental body:  
151 *Provided, however*, That nothing herein shall be construed to prohibit a ~~member of the Legislature~~  
152 ~~from entering into a contract with any governmental body, or prohibit a part-time appointed public~~  
153 ~~official, including a member of the Legislature, from entering into a contract which the part-time~~  
154 ~~appointed public official may have~~ has no direct authority to enter into or over which he or she  
155 ~~may have~~ has no control ~~when the official has not participated in the review or evaluation thereof,~~  
156 ~~has been recused from deciding or evaluating and has been excused from voting on the contract~~  
157 and has fully disclosed the extent of his or her interest in the contract to the person or persons  
158 who have control over the decision and the Ethics Commission, which has reviewed the  
159 circumstances and publicly affirmed that all purchasing rules were followed and the part-time  
160 public official is gaining no special benefit because of his or her position.

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

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

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

171 (3) If a public official or employee has an interest in the profits or benefits of a contract,  
172 then he or she may not make, participate in making, or in any way attempt to use his office or  
173 employment to influence a government decision affecting his or her financial or limited financial  
174 interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this  
175 section.

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

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

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

197 the government agency: *Provided*, That this prohibition on representation shall not apply when  
198 the client was not directly involved in the particular matter in which the professional employee  
199 represented the government agency, but was involved only as a member of a class. The  
200 provisions of this subsection shall not apply to legislators who were in office and legislative staff  
201 who were employed at the time it originally became effective on July 1, 1989, and those who have  
202 since become legislators or legislative staff and those who shall serve hereafter as legislators or  
203 legislative staff.

204 (g) Limitation on practice before a board, agency, commission, or department. — Except  
205 as otherwise provided in §8A-2-3, §8A-2-4, or §8A-2-5 of this code: (1) No elected or appointed  
206 public official and no full-time staff attorney or accountant ~~shall~~ may, during his or her public  
207 service or public employment or for a period of one year after the termination of his or her public  
208 service or public employment with a governmental entity authorized to hear contested cases or  
209 promulgate or propose rules, appear in a representative capacity before the governmental entity  
210 in which he or she serves or served or is or was employed in the following matters:

- 211 (A) A contested case involving an administrative sanction, action or refusal to act;  
212 (B) To support or oppose a proposed rule;  
213 (C) To support or contest the issuance or denial of a license or permit;  
214 (D) A rate-making proceeding; and  
215 (E) To influence the expenditure of public funds.

216 (2) As used in this subsection, “represent” includes any formal or informal appearance  
217 before, or any written or oral communication with, any public agency on behalf of any person:  
218 *Provided*, That nothing contained in this subsection ~~shall~~ may prohibit, during any period, a former  
219 public official or employee from being retained by or employed to represent, assist, or act in a  
220 representative capacity on behalf of the public agency by which he or she was employed or in  
221 which he or she served. Nothing in this subsection ~~shall~~ may be construed to prevent a former  
222 public official or employee from representing another state, county, municipal, or other

223 governmental entity before the governmental entity in which he or she served or was employed  
224 within one year after the termination of his or her employment or service in the entity.

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

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

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

241 (h) Employment by regulated persons and vendors. — (1) No full-time official or full-time  
242 public employee may seek employment with, be employed by, or seek to purchase, sell, or lease  
243 real or personal property to or from any person 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  
256 of 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~~ are not  
291 ~~be~~ guilty of any violation of ethics under the provisions of this section for a vote so cast.

292 (j) Limitations on voting. — (1) Public officials, excluding members of the Legislature who  
293 are governed by subsection (i) of this section, may not vote on a matter:

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

299 (B) If a public official is employed by a financial institution and his or her primary  
300 responsibilities include consumer and commercial lending, the public official may not vote on a

301 matter which directly affects the financial interests of a customer of the financial institution if the  
302 public official is directly involved in approving a loan request from the person or business  
303 appearing before the governmental body or if the public official has been directly involved in  
304 approving a loan for that person or business within the past 12 months: *Provided*, That this  
305 limitation only applies if the total amount of the loan or loans exceeds \$15,000.

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

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

318 (2) A public official may vote:

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

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

324 (i) The public official, or dependent family members individually or jointly own less than  
325 five percent of the issued stock in the publicly traded company and the value of the stocks  
326 individually or jointly owned is less than \$10,000; and

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

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

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

351 (l) Certain compensation prohibited. — (1) A public employee may not receive additional  
352 compensation from another publicly-funded state, county, or municipal office or employment for

353 working the same hours, unless:

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

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

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

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

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

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

375 (n) Any person who is employed as a member of the faculty or staff of a public institution  
376 of higher education and who is engaged in teaching, research, consulting, or publication activities  
377 in his or her field of expertise with public or private entities and thereby derives private benefits  
378 from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d)

379 of this section when the activity is approved as a part of an employment contract with the  
380 governing board of the institution or has been approved by the employee's department supervisor  
381 or the president of the institution by which the faculty or staff member is employed.

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

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

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

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

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

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

NOTE: The purpose of this bill is to prohibit members of the Legislature and part-time public officials from having an interest in public contracts under certain circumstances; require certain disclosures; and require the ethics commission to conduct oversight and make a public statement in certain circumstances.

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