

HB 3094

FILED

2007 APR -3 PM 4: 25

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 3094**

(By Delegates Webster, Proudfoot, Staggers, Long, Burdiss, Kessler, Hrutkay,
Shook, Moore, Pino and Hamilton)



Passed March 10, 2007

In Effect Ninety Days from Passage

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H. B. 3094

(BY DELEGATES WEBSTER, PROUDFOOT, STAGGERS, LONG,
BURDISS, KESSLER, HRUTKAY, SHOOK, MOORE, PINO AND
HAMILTON)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §61-10-15 of the Code of West Virginia, 1931, as amended, relating to prohibiting county and district officers, teachers and school officials from having a pecuniary interest in certain contracts; and exemptions.

Be it enacted by the Legislature of West Virginia:

That §61-10-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§ 61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contract; exceptions; offering or giving compensation penalties.

1 (a) It is unlawful for any member of a county
2 commission, overseer of the poor, district school officer,
3 secretary of a board of education, supervisor or
4 superintendent, principal or teacher of public schools or any
5 member of any other county or district board or any county

6 or district officer to be or become pecuniarily interested,
7 directly or indirectly, in the proceeds of any contract or
8 service or in the furnishing of any supplies in the contract for
9 or the awarding or letting of a contract if, as a member,
10 officer, secretary, supervisor, superintendent, principal or
11 teacher, he or she may have any voice, influence or control:
12 *Provided*, That nothing in this section prevents or makes
13 unlawful the employment of the spouse of a member, officer,
14 secretary, supervisor, superintendent, principal or teacher as
15 a principal or teacher or auxiliary or service employee in the
16 public schools of any county or prevents or makes unlawful
17 the employment by any joint county and circuit clerk of his
18 or her spouse.

19 (b) Any person who violates the provisions of subsection
20 (a) of this section is guilty of a misdemeanor and, upon
21 conviction thereof, shall be fined not less than fifty dollars
22 nor more than five hundred dollars or confined in jail not
23 more than one year, or both fined and confined.

24 (c) Any person convicted of violating the provisions of
25 subsection (a) of this section shall also be removed from his
26 or her office and the certificate or certificates of any teacher,
27 principal, supervisor or superintendent so convicted shall,
28 upon conviction thereof, be immediately revoked: *Provided*,
29 That no person may be removed from office and no
30 certificate may be revoked for a violation of the provisions of
31 this section unless the person has first been convicted of the
32 violation.

33 (d) Any person, firm or corporation that offers or gives
34 any compensation or thing of value or who forebears to
35 perform an act to any of the persons named in subsection (a)
36 of this section or to or for any other person with the intent to
37 secure the influence, support or vote of the person for any
38 contract, service, award or other matter as to which any
39 county or school district becomes or may become the
40 paymaster is guilty of a misdemeanor and, upon conviction
41 thereof, shall be fined not less than five hundred dollars nor
42 more than twenty-five hundred dollars and, in the court's
43 discretion, the person or any member of the firm or, if it is a
44 corporation, any agent or officer of the corporation offering
45 or giving any compensation or other thing of value may, in
46 addition to a fine, be confined in jail for a period not to
47 exceed one year.

48 (e) The provisions of subsection (a) of this section do not
49 apply to any person who is a salaried employee of a vendor
50 or supplier under a contract subject to the provisions of said
51 subsection if the employee, his or her spouse or child:

52 (1) Is not a party to the contract;

53 (2) Is not an owner, a shareholder, a director or an officer
54 of a private entity under the contract;

55 (3) Receives no commission, bonus or other direct
56 remuneration or thing of value by virtue of the contract;

57 (4) Does not participate in the deliberations or awarding
58 of the contract; and

59 (5) Does not approve or otherwise authorize the payment
60 for any services performed or supplies furnished under the
61 contract.

62 (f) The provisions of subsection (a) of this section do not
63 apply to any person who has a pecuniary interest in a bank
64 within the county serving or under consideration to serve as
65 a depository of funds for the county or board of education, as
66 the case may be, if the person does not participate in the
67 deliberations or any ultimate determination of the depository
68 of the funds.

69 (g) The provisions of subsection (a) of this section do not
70 apply to any person who has a pecuniary interest in a public
71 utility which is subject to regulation by the public service
72 commission of this state.

73 (h) Where the provisions of subsection (a) of this section
74 would result in the loss of a quorum in a public body or
75 agency, in excessive cost, undue hardship, or other
76 substantial interference with the operation of a governmental
77 body or agency, the affected governmental body or agency
78 may make written application to the West Virginia Ethics
79 Commission pursuant to subsection (d), section five, article
80 two, chapter six-B of the Code, for an exemption from
81 subsection (a) of this section.

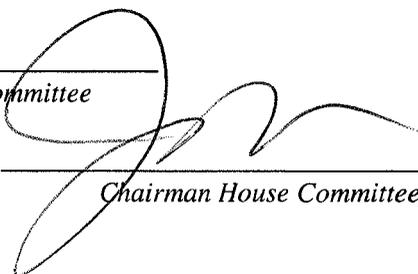
82 (i) The provisions of this section do not apply to
83 publications in newspapers required by law to be made.

84 (j) No school employee or school official subject to the
85 provisions of subsection (a) of this section has an interest in
86 the sale, proceeds or profits in any book or other thing used
87 or to be used in the free school system of this state, as
88 proscribed in section nine, article XII of the constitution of
89 West Virginia, if they qualify for the exceptions set forth in
90 subsections (e), (f),(g) or (h) of this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



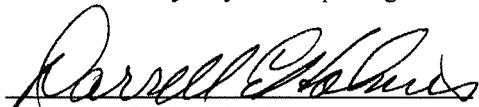
Chairman Senate Committee



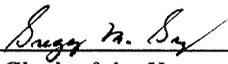
Chairman House Committee

Originating in the House.

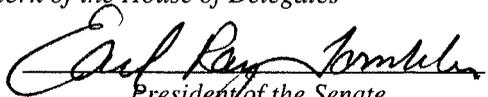
In effect ninety days from passage.



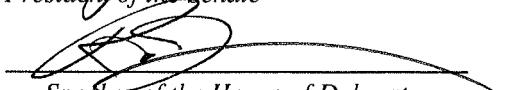
Clerk of the Senate



Clerk of the House of Delegates

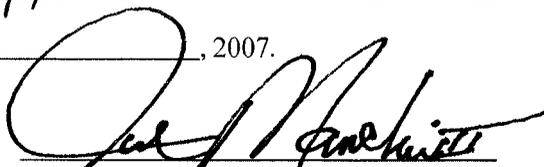


President of the Senate



Speaker of the House of Delegates

The within is approved this the 3rd
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 22 2007

Time 3:50 pm