

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4298**

4
5 (By Delegates Manchin and Morgan)

6 (Originating in the Committee on the Judiciary)

7
8 [February 11, 2014]

9
10 A BILL to amend and reenact §6B-2-1 of the Code of West Virginia,
11 1931, as amended, relating to changing the experience
12 requirements of the composition of the members of the West
13 Virginia Ethics Commission.

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

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

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

22 **§6B-2-1. West Virginia Ethics Commission created; members;**
23 **appointment, term of office and oath; compensation**
24 **and reimbursement for expenses; meetings and quorum.**

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

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

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

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

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

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

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

20 (g) Members of the commission shall receive the same
21 compensation and expense reimbursement as is paid to members of the
22 Legislature for their interim duties as recommended by the Citizens
23 Legislative Compensation Commission and authorized by law for each
24 day or portion thereof engaged in the discharge of official duties:
25 *Provided, That to be eligible for compensation and expense*

1 reimbursement, the member must participate in a meeting or
2 adjudicatory session: *Provided, however,* That the member is not
3 eligible for expense reimbursement if he or she does not attend a
4 meeting or adjudicatory session in person.

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

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

21 (j) The principal office of the commission shall be in the
22 seat of government but it or its designated subcommittees may meet
23 and exercise its power at any other place in the state. Meetings
24 of the commission shall be public unless: (1) They are required to
25 be private by the provisions of this chapter relating to

1 confidentiality; or (2) they involve discussions of commission
2 personnel, planned or ongoing litigation and planned or ongoing
3 investigations.

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