

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4424

BY DELEGATES MILEY, MR. SPEAKER (MR. ARMSTEAD),
SHOTT, FLEISCHAUER, LANE, ROWE, HANSHAW, BOGGS,
HAMILTON, CAPUTO AND CAMPBELL

[Reported February 16, 2018; Referred to the
Committee on the Judiciary.]

1 A BILL to amend and reenact §6B-1-3 of the Code of West Virginia, 1931, as amended, all relating
2 to providing that the Ethics Act applies to certain persons providing services without pay
3 to elected officials.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. SHORT TITLE; LEGISLATIVE FINDINGS, PURPOSES AND INTENT;
CONSTRUCTION AND APPLICATION OF CHAPTER; SEVERABILITY.**

§6B-1-3. Definitions.

1 As used in this chapter, unless the context in which used clearly requires otherwise:

2 (a) "Review Board" means the Probable Cause Review Board created by §6B-2-2a of this
3 code.

4 (b) "Business" means any entity through which business for-profit is conducted including
5 a corporation, partnership, proprietorship, franchise, association, organization or self-employed
6 individual.

7 (c) "Compensation" means money, thing of value or financial benefit. The term
8 "compensation" does not include reimbursement for actual reasonable and necessary expenses
9 incurred in the performance of one's official duties.

10 (d) "Employee" means any person in the service of another under any contract of hire,
11 whether express or implied, oral or written, where the employer or an agent of the employer or a
12 public official has the right or power to control and direct such person in the material details of
13 how work is to be performed and who is not responsible for the making of policy nor for
14 recommending official action.

15 (e) "Ethics Commission" or "commission" means the West Virginia Ethics Commission.

16 (f) "Immediate family", with respect to an individual, means a spouse with whom the
17 individual is living as husband and wife and any dependent child or children, dependent grandchild
18 or grandchildren and dependent parent or parents.

19 (g) "Ministerial functions" means actions or functions performed by an individual under a
20 given state of facts in a prescribed manner in accordance with a mandate of legal authority,
21 without regard to, or without the exercise of, the individual's own judgment as to the propriety of
22 the action being taken.

23 (h) "Person" means an individual, corporation, business entity, labor union, association,
24 firm, partnership, limited partnership, committee, club or other organization or group of persons,
25 irrespective of the denomination given such organization or group.

26 (i) "Political contribution" means and has the same definition as is given that term under
27 the provisions of §3-8-1 *et seq.* of this code.

28 (j) "Public employee" means any full-time or part-time employee of any state, county or
29 municipal governmental body or any political subdivision thereof, including county school boards.

30 (k) "Public official" means any person, including a public servant volunteer, who is elected
31 or appointed to any state, county or municipal office or position, whether compensated or not,
32 and who is responsible for the making of policy or takes official action which is either ministerial
33 or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or
34 services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4)
35 inspecting, licensing, regulating or auditing any person; or (5) any other activity where the official
36 action has an economic impact of greater than a de minimis nature on the interest or interests of
37 any person.

38 (l) "Public servant volunteer" means any person performing services, without
39 compensation, on behalf of a public official and who is granted or vested with powers, privileges
40 or authorities reserved to public officials.

41 (l)(m) "Relative" means spouse, mother, father, sister, brother, son, daughter,
42 grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law,
43 son-in-law or daughter-in-law.

44 ~~(m)~~(n) “Respondent” means a person who is the subject of an investigation by the
45 commission or against whom a complaint has been filed with the commission.

46 ~~(n)~~(o) “Thing of value”, “other thing of value” or “anything of value” means and includes:
47 (1) Money, bank bills or notes, United States treasury notes and other bills, bonds or notes issued
48 by lawful authority and intended to pass and circulate as money; (2) goods and chattels; (3)
49 promissory notes, bills of exchange, orders, drafts, warrants, checks, bonds given for the payment
50 of money or the forbearance of money due or owing; (4) receipts given for the payment of money
51 or other property; (5) any right or chose in action; (6) chattels real or personal or things which
52 savor of realty and are, at the time taken, a part of a freehold, whether they are of the substance
53 or produce thereof or affixed thereto, although there may be no interval between the severing and
54 the taking away thereof; (7) any interest in realty, including, but not limited to, fee simple estates,
55 life estates, estates for a term or period of time, joint tenancies, cotenancies, tenancies in
56 common, partial interests, present or future interests, contingent or vested interests, beneficial
57 interests, leasehold interests or any other interest or interests in realty of whatsoever nature; (8)
58 any promise of employment, present or future; (9) donation or gift; (10) rendering of services or
59 the payment thereof; (11) any advance or pledge; (12) a promise of present or future interest in
60 any business or contract or other agreement; or (13) every other thing or item, whether tangible
61 or intangible, having economic worth. “Thing of value”, “other thing of value” or “anything of value”
62 shall not include anything which is de minimis in nature nor a lawful political contribution reported
63 as required by law.

NOTE: The purpose of this bill is to make the Ethics Act apply to persons who provide services for elected public officials without pay when other similarly situated persons receive pay for similar services.

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