

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5043**

By Delegates Ridenour, Martin, C. Pritt, Kirby, Steele,  
Householder, Mallow, Marple, Burkhammer, Phillips,  
and Hillenbrand

[Introduced January 23, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL amend §6B-3-1, §6B-3-2, §6B-3-4, §6B-3-6, and §6B-3-7 of the Code of West Virginia,  
 2 1931, as amended, and by adding thereto a new article, designated §6B-3A-1, §6B-3A-2,  
 3 §6B-3A-3, §6B-3A-4, §6B-3A-5, §6B-3A-6, §6B-3A-7, §6B-3A-8, §6B-3A-9, §6B-3A-10,  
 4 and §6B-3A-11, all relating to the requirements, prohibitions, and regulation of foreign  
 5 principals or agents of foreign principals, lobbying by or on behalf of such foreign principals  
 6 or their agents, and establishing criminal liabilities and fines for violations of the  
 7 requirements applicable to such foreign principals or their agents.

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

**ARTICLE 3. LOBBYISTS.**

**§6B-3-1. Definitions.**

1 As used in this article, unless the context in which used clearly indicates otherwise:

2 (1) "Agent of a Foreign Principal" and "foreign principal" shall mean the same as those  
 3 terms are defined in §6B-3A-1 of this code.

4 ~~(1)~~(2) "Compensation" means money or any other thing of value received or to be received  
 5 by a lobbyist from an employer for services rendered.

6 ~~(2)~~(3) "Employer" or "lobbyist's employer" means any person who employs or retains a  
 7 lobbyist.

8 ~~(3)~~(4) "Expenditure" means payment, distribution, loan, advance deposit, reimbursement,  
 9 or gift of money, real or personal property or any other thing of value; or a contract, promise or  
 10 agreement, whether or not legally enforceable.

11 ~~(4)~~(5) "Government officer or employee" means a member of the Legislature, a legislative  
 12 employee, the Governor and other members of the board of Public Works, heads of executive  
 13 departments and any other public officer or public employee under the legislative or executive  
 14 branch of state government who is empowered or authorized to make policy and perform  
 15 nonministerial functions. In the case of elected offices included herein, the term "government  
 16 officer or employee" includes candidates who have been elected but who have not yet assumed

17 office.

18 ~~(5)~~(6) "Legislation" means bills, resolutions, motions, amendments, nominations and other  
19 matters pending or proposed in either house of the Legislature and includes any other matters that  
20 may be the subject of action by either house or any committee of the Legislature and all bills or  
21 resolutions that, having passed both houses, are pending approval or veto by the Governor.

22 ~~(6)~~(7) "Lobbying" or "lobbying activity" means the act of communicating with a government  
23 officer or employee to promote, advocate or oppose or otherwise attempt to influence:

24 (i) The passage or defeat or the executive approval or veto of any legislation which may be  
25 considered by the Legislature of this state; or

26 (ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee or  
27 other delegated legislative or quasilegislative action to be taken or withheld by any executive  
28 department.

29 ~~(7)~~(8) "Lobbying firm" means any business entity, including an individual contract lobbyist,  
30 which meets either of the following criteria:

31 (A) The business entity receives or becomes entitled to receive any compensation, other  
32 than reimbursement for reasonable travel expenses, for the purpose of lobbying on behalf of any  
33 other person, and any partner, owner, officer or employee of the business entity.

34 (B) The business entity receives or becomes entitled to receive any compensation, other  
35 than reimbursement for reasonable travel expenses, to communicate directly with any elected  
36 state official, agency official or legislative official for the purpose of lobbying on behalf of any other  
37 person.

38 ~~(8)~~(9)(A) "Lobbyist" means any individual employed by a lobbying firm or who is otherwise  
39 employed or contracts for economic consideration, other than reimbursement for reasonable  
40 travel expenses, to communicate directly or through his or her agents with any elective state  
41 official, agency official or legislative official for the purpose of promoting, advocating, opposing or  
42 otherwise attempting to influence:

43 (i) The passage or defeat or the executive approval or veto of any legislation which may be  
44 considered by the Legislature of this state; or

45 (ii) The adoption or rejection of any rule, legislative rule, standard, rate, fee or other  
46 delegated legislative or quasilegislative action to be taken or withheld by any executive  
47 department.

48 (B) The term "lobbyist" does not include the following persons, who are exempt from the  
49 registration and reporting requirements set forth in this article, unless they engage in activities  
50 which would otherwise subject them to the registration and reporting requirements:

51 (i) Persons who limit their lobbying activities to appearing before public sessions of  
52 committees of the Legislature, or public hearings of state agencies, are exempt.

53 (ii) Persons who limit their lobbying activities to attending receptions, dinners, parties or  
54 other group functions and make no expenditure in connection with such lobbying are exempt.

55 (iii) Persons who engage in news or feature reporting activities and editorial comment as  
56 working members of the press, radio or television and persons who publish or disseminate such  
57 news, features or editorial comment through a newspaper, book, regularly published periodical,  
58 radio station or television station are exempt.

59 (iv) Persons who lobby without compensation or other consideration, other than  
60 reimbursement for reasonable travel expenses, for acting as lobbyists, who are not employed by a  
61 lobbying firm or lobbyist employer, and whose total expenditures in connection with lobbying  
62 activities do not exceed \$150 during any calendar year, are exempt. The exemptions contained in  
63 this subparagraph and in subparagraph (ii) are intended to permit and encourage citizens of this  
64 state to exercise their Constitutional rights to assemble in a peaceable manner, consult for the  
65 common good, instruct their representatives, and apply for a redress of grievances. Accordingly,  
66 such persons may lobby without incurring any registration or reporting obligation under this article.  
67 Any person exempt under this subparagraph or subparagraph (ii) may at his or her option register  
68 and report under this article.

69 (v) Persons who lobby on behalf of a nonprofit organization with regard to legislation,  
70 without compensation, and who restrict their lobbying activities to no more than twenty days or  
71 parts thereof during any regular session of the Legislature, are exempt. The commission may  
72 promulgate a legislative rule to require registration and reporting by persons who would otherwise  
73 be exempt under this subparagraph, if it determines that such rule is necessary to prevent  
74 frustration of the purposes of this article. Any person exempt under this subparagraph may, at his  
75 or her option, register and report under this article.

76 (vi) The Governor, members of the Governor's staff, members of the board of Public  
77 Works, officers and employees of the executive branch who communicate with a member of the  
78 Legislature on the request of that member, or who communicate with the Legislature, through the  
79 proper official channels, requests for legislative action or appropriations which are deemed  
80 necessary for the efficient conduct of the public business or which are made in the proper  
81 performance of their official duties, are exempt.

82 (vii) Members of the Legislature are exempt.

83 (viii) Persons employed by the Legislature for the purpose of aiding in the preparation or  
84 enactment of legislation or the performance of legislative duties are exempt.

85 (ix) Persons rendering professional services in drafting proposed legislation or in advising  
86 or rendering opinions to clients as to the construction and effect of proposed or pending legislation  
87 are exempt.

88 ~~(9)~~(10) "Person" means any individual, partnership, trust, estate, business trust,  
89 association or corporation; any department, commission, board, publicly supported college or  
90 university, division, institution, bureau or any other instrumentality of the state; or any county,  
91 municipal corporation, school district or any other political subdivision of the state.

### **§6B-3-2. Registration of lobbyists.**

1 (a) Before engaging in any lobbying activity, or within thirty days after being employed as a  
2 lobbyist, whichever occurs first, a lobbyist shall register with the Ethics Commission by filing a

3 lobbyist registration statement. The registration statement shall contain information and be in a  
4 form prescribed by the Ethics Commission by legislative rule, including, but not limited to, the  
5 following information:

6 (1) The registrant's name, business address, telephone numbers and any temporary  
7 residential and business addresses and telephone numbers used or to be used by the registrant  
8 while lobbying during a legislative session;

9 (2) The name, address and occupation or business of the registrant's employer;

10 (3) A statement as to whether the registrant is employed or retained by his or her employer  
11 solely as a lobbyist or is a regular employee performing services for the employer which include,  
12 but are not limited to, lobbying;

13 (4) A statement as to whether the registrant is employed or retained by his or her employer  
14 under any agreement, arrangement or understanding according to which the registrant's  
15 compensation, or any portion of the registrant's compensation, is or will be contingent upon the  
16 success of his or her lobbying activity;

17 (5) The general subject or subjects, if known, on which the registrant will lobby or employ  
18 some other person to lobby in a manner which requires registration under this article; ~~and~~

19 (6) An appended written authorization from each of the lobbyist's employers confirming the  
20 lobbyist's employment and the subjects on which the employer is to be represented; and

21 (7) All agency and/or retention or contracting for lobbying on behalf of foreign principals as  
22 required by §6B-3A-1 et seq. of this code.

23 (b) Any lobbyist who receives or is to receive compensation from more than one person for  
24 services as a lobbyist shall file a separate notice of representation with respect to each person  
25 compensating him or her for services performed as a lobbyist. When a lobbyist whose fee for  
26 lobbying with respect to the same subject is to be paid or contributed by more than one person,  
27 then the lobbyist may file a single statement, in which he or she shall detail the name, business  
28 address and occupation of each person paying or contributing to the fee.

29 (c) Whenever a change, modification or termination of the lobbyist's employment occurs,  
30 the lobbyist shall, within one week of the change, modification or termination, furnish full  
31 information regarding the change, modification or termination by filing with the commission an  
32 amended registration statement.

33 (d) Each lobbyist who has registered shall file a new registration statement, revised as  
34 appropriate, on the Monday preceding the second Wednesday in January of each odd-numbered  
35 year and failure to do so terminates his or her authorization to lobby. Until the registration is  
36 renewed, the person may not engage in lobbying activities unless he or she is otherwise exempt  
37 under §6B-3-1 of this code.

38 (e) The following public officers or employees may not, during or up to one year after the  
39 termination of their public employment or service, be allowed to register as lobbyists:

40 (1) Members of the Legislature;

41 (2) Members of the Executive Department as referenced in article VII, section one of the  
42 Constitution of West Virginia;

43 (3) Will and pleasure professional employees of the Legislature under the direct  
44 supervision of a member of the Legislature;

45 (4) Will and pleasure professional employees of members of the Executive Department  
46 under the direct supervision of the Executive Department officer and who regularly, personally and  
47 substantially participates in a decision-making or advisory capacity regarding agency or  
48 department policy;

49 (5) Members of the Supreme Court of Appeals;

50 (6) Any department secretary of an executive branch department created by the provisions  
51 of section two, article one, chapter five-f of this code; and

52 (7) Heads of any state departments or agencies.

**§6B-3-4. Reporting by lobbyists.**

1 (a) A registered lobbyist shall file with the commission reports of his or her lobbying

2 activities, signed by the lobbyist. The reports shall be filed three times a year as follows:

3 (1) On or before May 15, a lobbyist shall report all lobbying activities in which he or she  
4 engaged from January 1 through April 30.

5 (2) On or before September 15, a lobbyist shall report all lobbying activities in which he or  
6 she engaged from May 1 through August 31;

7 (3) On or before January 15, a lobbyist shall report all lobbying activities in which he or she  
8 engaged from September 1 through December 31.

9 (b) If the date on which a lobbyist expenditure report is due falls on a Saturday, Sunday or  
10 legal holiday, the report will be considered timely filed if it is postmarked not later than the next  
11 business day. If a registered lobbyist files a late report, the lobbyist shall pay the commission a fee  
12 of \$10 for each late day, not to exceed a total of \$250. If a registered lobbyist fails to file a report or  
13 to pay the required fee for filing an untimely report, the commission may, after written notice sent  
14 by certified mail, return receipt requested, suspend the lobbyist's privileges as a registered  
15 lobbyist until the lobbyist has satisfactorily complied with all reporting requirements and paid the  
16 required fee.

17 (c)(1) Except as otherwise provided in this section, each report filed by a lobbyist shall  
18 show the total amount of all expenditures for lobbying activities made or incurred by on behalf of  
19 the lobbyist during the period covered by the report. The report shall also show subtotals  
20 segregated according to financial category, including meals and beverages; living  
21 accommodations; advertising; travel; contributions; gifts to public officials or employees or to  
22 members of the immediate family of a public official or employee; and other expenses or services.

23 (2) Lobbyists are not required to report the following:

24 (A) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

25 (B) Any expenses incurred for the lobbyist's own living accommodations;

26 (C) Any expenses incurred for the lobbyist's own travel to and from public meetings or  
27 hearings of the legislative and executive branches; or



28 (D) Any expenses incurred for telephone and any office expenses, including rent and  
29 salaries and wages paid for staff and secretarial assistance.

30 (d) Report all agency and/or retention or contracting for lobbying on behalf of foreign  
31 principals as required by §6B-3A-1 et seq. of this code.

32 ~~(d)~~(e) If a lobbyist is employed by more than one employer, the report shall show the  
33 proportionate amount of the expenditures in each category incurred on behalf of each of his or her  
34 employers.

35 ~~(e)~~(f) The report shall describe the subject matter of the lobbying activities in which the  
36 lobbyist has been engaged during the reporting period.

37 ~~(f)~~(g) If, during the period covered by the report, the lobbyist made expenditures or  
38 expenditures were made or incurred on behalf of the lobbyist in the reporting categories of meals  
39 and beverages, living accommodations, travel, gifts or other expenditures, other than for those  
40 expenditures governed by subsection (g) of this section, the lobbyist shall report the name of the  
41 public official or employee to whom or on whose behalf the expenditures were made, the total  
42 amount of the expenditures, and the subject matter of the lobbying activity, if any: *Provided*, That a  
43 registered lobbyist who entertains more than one public official or public employee at a time with  
44 meals and beverages complies with the provisions of this section if he or she reports the names of  
45 the public officials or public employees entertained and the total amount expended for meals and  
46 beverages for all of the public officials or public employees entertained: *Provided, however*, That  
47 where several lobbyists join in entertaining one or more public officials or public employees at a  
48 time with meals and beverages, each lobbyist complies with the provisions of this section by  
49 reporting the names of the public officials or public employees entertained and his or her  
50 proportionate share of the total amount expended for meals and beverages for all of the public  
51 officials or public employees entertained. Under this subsection, no portion of the amount of an  
52 expenditure for a dinner, party or other function sponsored by a lobbyist's employer need be  
53 attributed to a particular public official or employee who attends the function if the sponsor has

54 invited to the function all the members of: (1) The Legislature; (2) either house of the Legislature;  
 55 (3) a standing or select committee of either house; or (4) a joint committee of the two houses of the  
 56 Legislature. However, the amount spent for the function shall be added to other expenditures for  
 57 the purpose of determining the total amount of expenditures reported under subdivision (1),  
 58 subsection (c) of this section: *Provided further*, That if the expenditure is for a function to which the  
 59 entire membership of the Legislature has been invited, the lobbyist need only report that fact, the  
 60 total amount of the expenditure and the subject matter of the lobbying activity.

61 ~~(g)~~(h) If, during the period covered by the report, the lobbyist made expenditures in the  
 62 reporting categories of meals and beverages, lodging, travel, gifts and scheduled entertainment  
 63 for or on behalf of a particular public official or public employee in return for the participation of the  
 64 public official or employee in a panel or speaking engagement at a meeting, the lobbyist shall  
 65 report the name of the public official or employee to whom or on whose behalf the expenditures  
 66 were made and the total amount of the expenditures.

**§6B-3-6. Employment of unregistered persons.**

1 It shall be a violation of this chapter for any person to employ for pay or any consideration,  
 2 or pay or agree to pay any consideration to, a person to lobby who is not registered under this  
 3 chapter except upon condition that such person register as a lobbyist as provided by this chapter,  
 4 and such person does in fact so register as soon as practicable: *Provided*, That all registration and  
 5 reporting required pursuant §6B-3A-1 et seq. of this code must be accomplished prior to any  
 6 lobbying activity conducted by, or on behalf of, a foreign principal.

**§6B-3-7. Duties of lobbyists.**

1 A person required to register as a lobbyist under this article also has the following  
 2 obligations, the violation of which constitutes cause for revocation of his or her registration and  
 3 termination of his or her lobbying privileges and may subject the person, and the person's  
 4 employer, if employer aids, abets, ratifies or confirms the violation, to other civil liabilities as  
 5 provided by this chapter.

6 (1) Any person required to register as a lobbyist shall obtain, preserve and make available  
7 for inspection by the Commission at any time all accounts, bills, receipts, books, papers and  
8 documents necessary to substantiate the financial reports required to be made under this article  
9 for a period of at least two years from the date of the filing of the statement to which those items  
10 relate: *Provided*, That if a lobbyist is required under the terms of his or her employment contract to  
11 turn any records over to his or her employer, responsibility for the preservation of the records  
12 under this subsection shall rest with the employer.

13 (2) In addition, a person required to register as a lobbyist may not:

14 (A) Engage in any lobbying activity before registering as a lobbyist;

15 (B) Engage in any activity prohibited by or in violation of §6B-3A-1 et seq. of this code;

16 ~~(B)~~(C) Knowingly deceive or attempt to deceive any government officer or employee as to  
17 any fact pertaining to a matter which is the subject of lobbying activity;

18 ~~(C)~~(D) Cause or influence the introduction of any legislation for the purpose of thereafter  
19 being employed to secure its defeat;

20 ~~(D)~~(E) Exercise any undue influence, extortion or unlawful retaliation upon any  
21 government officer or employee by reason of the government officer or employee's position with  
22 respect to, or his or her vote upon, any matter which is the subject of lobbying activity;

23 ~~(E)~~(F) Exercise undue influence upon any legislator or other privately employed  
24 government officer or employee through communications with the person's employer;

25 ~~(F)~~(G) Give a gift to any government officer or employee in excess of or in violation of any  
26 limitations on gifts set forth in §6B-2-5 of this code or give any gift, whether lawful or unlawful, to a  
27 government officer or employee without the government officer or employee's knowledge and  
28 consent.

29 (H) Fail to exercise stringent and exhaustive due diligence to identify: (i) any person who  
30 acts as an agent, representative, employee, or servant, or any person who acts in any other  
31 capacity at the order, request, or under the direction or control, of a foreign principal or of a person

32 any of whose activities are directly or indirectly supervised, directed, controlled, financed, or  
 33 subsidized in whole or in major part by a foreign principal; (ii) the ultimate controlling corporate  
 34 ownership of any business or other entity lobbying, or principal of any corporate ownership of any  
 35 business entity lobbying, on behalf of whom the person has been engaged to lobby to any  
 36 representative of the government of West Virginia or entities under the jurisdiction of the  
 37 government of West Virginia in order to identify the existence of any indirect foreign ownership  
 38 interest required to be disclosed by §6B-3A-1 et seq. of this code. No amount of subsidiary layers  
 39 of corporate structure shall alleviate this requirement: *Provided*, That the exemptions from the  
 40 definition of "agent of a foreign principal" in §6B-3A-1(d) of this code shall also qualify the  
 41 requirements \_\_\_\_\_ of \_\_\_\_\_ this \_\_\_\_\_ section.

**ARTICLE 3A. FOREIGN AGENTS REGISTRATION ACT.**

**§6B-3A-1. Definitions.**

1 As used in and for the purposes of this article--  
 2 (a) The term "person" includes an individual, partnership, association, corporation,  
 3 organization, or any other combination of individuals;  
 4 (b) The term "foreign principal" includes--  
 5 (1) A government of a foreign country or a foreign political party;  
 6 (2) A person outside of the United States, unless it is established that such person is an  
 7 individual and a citizen of and domiciled within the United States, or that such person is not an  
 8 individual and is organized under or created by the laws of the United States or of any State or  
 9 other place subject to the jurisdiction of the United States and has its principal place of business  
 10 within the United States; and  
 11 (3) A partnership, association, corporation, organization, or other combination of persons  
 12 organized under the laws of or having its principal place of business in a foreign country.  
 13 (c) Except as provided in §6B-3A-1(d) of this code, the term "agent of a foreign principal"  
 14 means--

15 (1) Any person who acts as an agent, representative, employee, or servant, or any person  
16 who acts in any other capacity at the order, request, or under the direction or control, of a foreign  
17 principal or of a person any of whose activities are directly or indirectly supervised, directed,  
18 controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly  
19 or through any other person--

20 (i) Engages within the United States, and specifically within the State of West Virginia, in  
21 political activities for or in the interests of such foreign principal;

22 (ii) Acts within the United States, and specifically within the State of West Virginia, as a  
23 public relations counsel, publicity agent, information service employee or political consultant for or  
24 in the interests of such foreign principal;

25 (iii) Within the United States, and specifically within the State of West Virginia, solicits,  
26 collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the  
27 interest of such foreign principal; or

28 (iv) Within the United States, and specifically within the State of West Virginia, represents  
29 the interests of such foreign principal before any agency or official of the Government of the United  
30 States, and/or the Government of the State of West Virginia; and

31 (2) Any person who agrees, consents, assumes or purports to act as, or who is or holds  
32 himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign  
33 principal as defined in §6B-3A-1(c)(1) of this code.

34 (d) The term "agent of a foreign principal" does not include any news or press service or  
35 association organized under the laws of the United States or of any State or other place subject to  
36 the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication  
37 for which there is on file with the United States Postal Service information in compliance with  
38 section 3611 of Title 39 of the United States Code, published in the United States, solely by virtue  
39 of any bona fide news or journalistic activities, including the solicitation or acceptance of  
40 advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per

41 centum beneficially owned by, and its officers and directors, if any, are citizens of the United  
42 States, and such news or press service or association, newspaper, magazine, periodical, or other  
43 publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its  
44 policies are determined by any foreign principal defined in §6B-3A-1(b) of this code, or by any  
45 agent of a foreign principal required to register under this article;

46 (e) The term "government of a foreign country" includes any person or group of persons  
47 exercising sovereign de facto or de jure political jurisdiction over any country, or acting on behalf of  
48 a foreign government, other than the United States, or over any part of such country, and includes  
49 any subdivision of any such group and any group or agency to which such sovereign de facto or de  
50 jure authority or functions are directly or indirectly delegated. Such term shall include any faction or  
51 body of insurgents within a country assuming to exercise governmental authority whether such  
52 faction or body of insurgents has or has not been recognized by the United States;

53 (f) The term "foreign political party" includes any organization or any other combination of  
54 individuals in a country other than the United States, or any unit or branch thereof, having for an  
55 aim or purpose, or which is engaged in any activity devoted in whole or in part to, the  
56 establishment, administration, control, or acquisition of administration or control, of a government  
57 of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or  
58 public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

59 (g) The term "public-relations counsel" includes any person who engages directly or  
60 indirectly in informing, advising, or in any way representing a principal in any public relations  
61 matter pertaining to political or public interests, policies, or relations of such principal;

62 (h) The term "publicity agent" includes any person who engages directly or indirectly in the  
63 publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any  
64 kind, including publication by means of advertising, books, periodicals, newspapers, lectures,  
65 broadcasts, motion pictures, or otherwise;

66 (i) The term "information-service employee" includes any person who is engaged in

67 furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to  
68 the political, industrial, employment, economic, social, cultural, or other benefits, advantages,  
69 facts, or conditions of any country other than the United States or of any government of a foreign  
70 country or of a foreign political party or of a partnership, association, corporation, organization, or  
71 other combination of individuals organized under the laws of, or having its principal place of  
72 business in, a foreign country;

73 (j) The term "registration statement" means the registration statement required to be filed  
74 with the Secretary of State of West Virginia under §6B-3A-2(a) of this code, and any supplements  
75 thereto required to be filed under §6B-3A-2(b) of this code, and includes all documents and papers  
76 required to be filed therewith or amendatory thereof or supplemental thereto, whether attached  
77 thereto or incorporated therein by reference;

78 (k) The term "United States", when used in a geographical sense, includes the several  
79 States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all  
80 other places now or hereafter subject to the civil or military jurisdiction of the United States;

81 (l) The term "political activities" means any activity that the person engaging in believes  
82 will, or that the person intends to, in any way influence any agency or official of the Government of  
83 the United States, and/or the Government of the State of West Virginia, or any section of the public  
84 within the United States with reference to formulating, adopting, or changing the domestic or  
85 foreign policies of the United States or with reference to the political or public interests, policies, or  
86 relations of a government of a foreign country or a foreign political party;

87 (m) The term "political consultant" means any person who engages in informing or advising  
88 any other person with reference to the domestic or foreign policies of the United States, and/or the  
89 Government of the State of West Virginia, or the political or public interest, policies, or relations of  
90 a foreign country or of a foreign political party.

**§6B-3A-2. Requirements as to registration.**

1 (a) No person shall act as an agent of a foreign principal unless he has filed with the

2 Secretary of State of West Virginia a true and complete registration statement and supplements  
3 thereto as required by §§6B-3A-2 (a) and (b) of this code or unless he or she is exempt from  
4 registration under the provisions of this article. Except as hereinafter provided, every person who  
5 becomes an agent of a foreign principal shall, within ten days thereafter, file with the Secretary of  
6 State of West Virginia, in duplicate, a registration statement, under oath on a form prescribed by  
7 the Secretary of State of West Virginia. The obligation of an agent of a foreign principal to file a  
8 registration statement shall, after the tenth day of his becoming such agent, continue from day to  
9 day, and termination of such status shall not relieve such agent from his or her obligation to file a  
10 registration statement for the period during which he or she was an agent of a foreign principal.  
11 The registration statement shall include the following, which shall be regarded as material for the  
12 purposes of this article:

13 (1) Registrant's name, principal business address, all other business addresses, and all  
14 internet Uniform Resource Locator (URL) web addresses for itself and all corporate parent and  
15 subsidiary entities in the United States or elsewhere, and all residence addresses, if any;

16 (2) Status of the registrant; if an individual, nationality; if a partnership, name, residence  
17 addresses, and nationality of each partner and a true and complete copy of its articles of co-  
18 partnership; if an association, corporation, organization, or any other combination of individuals,  
19 the name, residence addresses, and nationality of each director and officer and of each person  
20 performing the functions of a director or officer and a true and complete copy of its charter, articles  
21 of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every  
22 other instrument or document and a statement of the terms and conditions of every oral agreement  
23 relating to its organization, powers, and purposes; and a statement of its ownership and control;

24 (3) A comprehensive statement of the nature of registrant's business; a complete list of  
25 registrant's employees and a statement of the nature of the work of each; the name and address of  
26 every foreign principal for whom the registrant is acting, assuming or purporting to act or has  
27 agreed to act; the character of the business or other activities of every such foreign principal, and,



28 if any such foreign principal be other than a natural person, a statement of the ownership and  
29 control of each; and the extent, if any, to which each such foreign principal is supervised, directed,  
30 owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign  
31 country or foreign political party, or by any other foreign principal;

32 (4) Copies of each written agreement and the terms and conditions of each oral  
33 agreement, including all modifications of such agreements, or, where no contract exists, a full  
34 statement of all the circumstances, by reason of which the registrant is an agent of a foreign  
35 principal; a comprehensive statement of the nature and method of performance of each such  
36 contract, and of the existing and proposed activity or activities engaged in or to be engaged in by  
37 the registrant as agent of a foreign principal for each such foreign principal, including a detailed  
38 statement of any such activity which is a political activity;

39 (5) The nature and amount of contributions, income, money, or thing of value, if any, that  
40 the registrant has received within the preceding year from each such foreign principal, either as  
41 compensation or for disbursement or otherwise, and the form and time of each such payment and  
42 from whom received;

43 (6) A detailed statement of every activity which the registrant is performing or is assuming  
44 or purporting or has agreed to perform for himself or any other person other than a foreign principal  
45 and which requires his registration hereunder, including a detailed statement of any such activity  
46 which is a political activity;

47 (7) The name, business, and residence addresses, and if an individual, the nationality, of  
48 any person other than a foreign principal for whom the registrant is acting, assuming or purporting  
49 to act or has agreed to act under such circumstances as require his registration hereunder; the  
50 extent to which each such person is supervised, directed, owned, controlled, financed, or  
51 subsidized, in whole or in part, by any government of a foreign country or foreign political party or  
52 by any other foreign principal; and the nature and amount of contributions, income, money, or thing  
53 of value, if any, that the registrant has received during the preceding year from each such person in

54 connection with any of the activities referred to in §6B-3A-2(a) of this code, either as compensation  
55 or for disbursement or otherwise, and the form and time of each such payment and from whom  
56 received;

57 (8) A detailed statement of the money and other things of value spent or disposed of by the  
58 registrant during the preceding year in furtherance of or in connection with activities which require  
59 his or her registration hereunder and which have been undertaken by him or her either as an agent  
60 of a foreign principal or for himself or herself or any other person or in connection with any activities  
61 relating to his or her becoming an agent of such principal, and a detailed statement of any  
62 contributions of money or other things of value made by him or her during the preceding year  
63 (other than contributions the making of which is prohibited under the terms of section 613 of Title  
64 18 of the United States Code) in connection with an election to any political office or in connection  
65 with any primary election, convention, or caucus held to select candidates for any political office;

66 (9) Copies of each written agreement and the terms and conditions of each oral  
67 agreement, including all modifications of such agreements, or, where no contract exists, a full  
68 statement of all the circumstances, by reason of which the registrant is performing or assuming or  
69 purporting or has agreed to perform for himself or herself or for a foreign principal or for any person  
70 other than a foreign principal any activities which require his or her registration hereunder;

71 (10) Such other statements, information, or documents pertinent to the purposes of this  
72 article as the Secretary of State of West Virginia, having due regard for the national security and  
73 the public interest, may from time to time require;

74 (11) Such further statements and such further copies of documents as are necessary to  
75 make the statements made in the registration statement and supplements thereto, and the copies  
76 of documents furnished therewith, not misleading.

77 (b) Every agent of a foreign principal who has filed a registration statement required by  
78 §6B-3A-2(a) of this code, within thirty days after the expiration of each period of six months  
79 succeeding such filing, file with the Secretary of State of West Virginia a supplement thereto under

80 oath, on a form prescribed by the Secretary of State of West Virginia, which shall set forth with  
81 respect to such preceding six months' period such facts as the Secretary of State of West Virginia,  
82 having due regard for the national security and the public interest, may deem necessary to make  
83 the information required under this section accurate, complete, and current with respect to such  
84 period. In connection with the information furnished under subdivisions (3), (4), (6), and (9) of  
85 §6B-3A-2(a) of this code, the registrant shall give notice to the Secretary of State of West Virginia  
86 of any changes therein within ten days after such changes occur. If the Secretary of State of West  
87 Virginia, having due regard for the national security and the public interest, determines that it is  
88 necessary to carry out the purposes of this article, he or she may, in any particular case, require  
89 supplements to the registration statement to be filed at more frequent intervals in respect to all or  
90 particular items of information to be furnished.

91 (c) The registration statement and supplements thereto shall be executed under oath as  
92 follows: If the registrant is an individual, by him or her; if the registrant is a partnership, by all the  
93 partners thereof; if the registrant is a person other than an individual or a partnership, by all the  
94 officers thereof or persons performing the functions of officers or by all the board of directors  
95 thereof or persons performing the functions of directors, if any.

96 (d) The fact that a registration statement or supplement thereto has been filed shall not  
97 necessarily be deemed a full compliance with this article and the regulations thereunder on the  
98 part of the registrant; nor shall it indicate that the Secretary of State of West Virginia has in any way  
99 passed upon the merits of such registration statement or supplement thereto; nor shall it preclude  
100 prosecution, as provided for in this article, for willful failure to file a registration statement or  
101 supplement thereto when due or for a willful false statement of a material fact therein or the willful  
102 omission of a material fact required to be stated therein or the willful omission of a material fact or  
103 copy of a material document necessary to make the statements made in a registration statement  
104 and supplements thereto, and the copies of documents furnished therewith, not misleading.

105 (e) The Secretary of State of West Virginia may, by regulation, provide for the exemption-

106 From the requirement of furnishing any of the information required by this section of any  
107 agent of a foreign principal, where by reason of the nature of the functions or activities of such  
108 person the Secretary of State of West Virginia, having due regard for the national security and the  
109 public interest, determines that such registration, or the furnishing of such information, as the case  
110 may be, is not necessary to carry out the purposes of this article.

**§6B-3A-3.****Exemptions.**

1 The requirements of section §6B-3A-2(a) of this code shall not apply to the following  
2 agents of foreign principals:

3 (a) A duly accredited diplomatic or consular officer of a foreign government who is so  
4 recognized by the United States Department of State, while said officer is engaged exclusively in  
5 activities which are recognized by the Department of State as being within the scope of the  
6 functions of such officer;

7 (b) Any official of a foreign government, if such government is recognized by the United  
8 States, who is not a public-relations counsel, publicity agent, information-service employee, or a  
9 citizen of the United States, whose name and status and the character of whose duties as such  
10 official are of public record in the Department of State, while said official is engaged exclusively in  
11 activities which are recognized by the Department of State as being within the scope of the  
12 functions of such official;

13 (c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or  
14 consular officer of a foreign government who is so recognized by the Department of State, other  
15 than a public-relations counsel, publicity agent, or information-service employee, whose name  
16 and status and the character of whose duties as such member or employee are of public record in  
17 the Department of State, while said member or employee is engaged exclusively in the  
18 performance of activities which are recognized by the Department of State as being within the  
19 scope of the functions of such member or employee;

20 (d) Any person engaging or agreeing to engage only (1) in private and nonpolitical activities

21 in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities  
22 not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and  
23 contributions within the United States to be used only for medical aid and assistance, or for food  
24 and clothing to relieve human suffering, if such solicitation or collection of funds and contributions  
25 is in accordance with and subject to all applicable provisions of federal law, and such rules and  
26 regulations as may be prescribed thereunder;

27 (f) Any person, or employee of such person, whose foreign principal is a government of a  
28 foreign country the defense of which the President deems vital to the defense of the United States  
29 while, (1) such person or employee engages only in activities which are in furtherance of the  
30 policies, public interest, or national defense both of such government and of the Government of  
31 the United States, and are not intended to conflict with any of the domestic or foreign policies of the  
32 Government of the United States, (2) each communication or expression by such person or  
33 employee which he intends to, or has reason to believe will, be published, disseminated, or  
34 circulated among any section of the public, or portion thereof, within the United States, is a part of  
35 such activities and is believed by such person to be truthful and accurate and the identity of such  
36 person as an agent of such foreign principal is disclosed therein, and (3) such government of a  
37 foreign country furnishes to the United States Secretary of State for transmittal to, and retention for  
38 the duration of this article by, the United States Attorney General such information as to the identity  
39 and activities of such person or employee at such times as the Attorney General may require.  
40 Upon notice to the Government of which such person is an agent or to such person or employee,  
41 the Attorney General, having due regard for the public interest and national defense, may, with the  
42 approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in  
43 whole or in part the exemption herein of any such person or employee;

44 (g) Any person qualified to practice law, insofar as he or she engages or agrees to engage  
45 in the legal representation of a disclosed foreign principal before any court of law or any agency of  
46 the Government of the United States: *Provided*, That for the purposes of this subsection legal

47 representation does not include attempts to influence or persuade agency personnel or officials  
48 other than in the course of judicial proceedings, criminal or civil law enforcement inquiries,  
49 investigations, or proceedings, or agency proceedings required by statute or regulation to be  
50 conducted on the record.

51 (h) Any agent of a person described in section §6B-3A-1(b)(2) of this code or an entity  
52 described in section §6B-3A-1(b)(3) of this code if the agent has engaged in lobbying activities and  
53 has registered under §6B-3-1 et seq. of this code in connection with the agent's representation of  
54 such person or entity.

**§6B-3A-4. Filing and labeling of informational materials.**

1 (a) Every person within the United States who is an agent of a foreign principal and  
2 required to register under the provisions of this article and who transmits or causes to be  
3 transmitted in the United States mails or by any means or instrumentality of interstate or foreign  
4 commerce any informational materials to, within or from the State of West Virginia for or in the  
5 interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is  
6 reasonably adapted to being, or which he or she believes will be, or which he or she intends to be,  
7 disseminated or circulated among two or more persons shall, not later than forty-eight hours after  
8 the beginning of the transmittal thereof, file with the Secretary of State of West Virginia two copies  
9 thereof.

10 (b) It shall be unlawful for any person within the United States who is an agent of a foreign  
11 principal and required to register under the provisions of this article to transmit or cause to be  
12 transmitted in the United States mails or by any means or instrumentality of interstate or foreign  
13 commerce any informational materials to, within or from the State of West Virginia for or in the  
14 interests of such foreign principal without placing in such informational materials a conspicuous  
15 statement that the materials are distributed by the agent on behalf of the foreign principal, and that  
16 additional information is on file with the Department of Justice, Washington, District of Columbia.  
17 The United States Attorney General may by rule define what constitutes a conspicuous statement

18 for the purposes of this subsection.

19 (c) The copies of informational materials required by this article to be filed with the United  
20 States Attorney General shall be available for public inspection under such regulations as he may  
21 prescribe.

22 (d) It shall be unlawful for any person within the United States who is an agent of a foreign  
23 principal required to register under the provisions of this article to transmit, convey, or otherwise  
24 furnish to any agency or official of any Government entity constituted within the State of West  
25 Virginia, for or in the interests of such foreign principal any political propaganda or to request from  
26 any such agency or official for or in the interests of such foreign principal any information or advice  
27 with respect to any matter pertaining to the political or public interests, policies or relations of a  
28 foreign country or of a political party or pertaining to the policies of the State of West Virginia  
29 unless the propaganda or the request is prefaced or accompanied by a true and accurate  
30 statement to the effect that such person is registered as an agent of such foreign principal under  
31 this article.

32 (e) Whenever any agent of a foreign principal required to register under this article appears  
33 before any committee of the Legislature of the State of West Virginia to testify for or in the interests  
34 of such foreign principal, he or she shall, at the time of such appearance, furnish the committee  
35 with a copy of his or her most recent registration statement filed with the Secretary of State of West  
36 Virginia as an agent of such foreign principal for inclusion in the records of the committee as part of  
37 his testimony.

**§6B-3A-5. Maintenance of books and records.**

1 Every agent of a foreign principal registered under this article shall keep and preserve  
2 while he or she is an agent of a foreign principal such books of account and other records with  
3 respect to all his or her activities, the disclosure of which is required under the provisions of this  
4 article, in accordance with such business and accounting practices, as the United States Attorney  
5 General and/or the Secretary of State of West Virginia, having due regard for the national security

6 and the public interest, may by regulation prescribe as necessary or appropriate for the  
 7 enforcement of the provisions of this article and shall preserve the same for a period of three years  
 8 following the termination of such status. Until regulations are in effect under this section every  
 9 agent of a foreign principal shall keep books of account and shall preserve all written records with  
 10 respect to his activities. Such books and records shall be open at all reasonable times to the  
 11 inspection of any official charged with the enforcement of this article. It shall be unlawful for any  
 12 person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy,  
 13 obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or  
 14 falsified, any books or records required to be kept under the provisions of this section.

**§6B-3A-6. Public examination of official records.**

1 (a) The Secretary of State of West Virginia shall retain in permanent form one copy of all  
 2 registration statements furnished under this article, and the same shall be public records and open  
 3 to public examination and inspection at such reasonable hours, under such regulations, as the  
 4 Secretary of State of West Virginia may prescribe, and copies of the same shall be furnished to  
 5 every applicant at such reasonable fee as the Secretary of State of West Virginia may prescribe.  
 6 The Secretary of State of West Virginia may withdraw from public examination the registration  
 7 statement and other statements of any agent of a foreign principal whose activities have ceased to  
 8 be of a character which requires registration under the provisions of this article.

9 (b) The Secretary of State of West Virginia is authorized to furnish to departments and  
 10 agencies in the executive branch and committees of the Legislature of the State of West Virginia  
 11 such information obtained by him or her in the administration of this article, including the names of  
 12 registrants under this article, copies of registration statements, or parts thereof, or other  
 13 documents or information filed under this article, as may be appropriate in the light of the purposes  
 14 of this article.

**§6B-3A-7. Liability of officers.**

1 (a) Each officer, or person performing the functions of an officer, and each director, or



2 person performing the functions of a director, of an agent of a foreign principal which is not an  
 3 individual shall be under obligation to cause such agent to execute and file a registration statement  
 4 and supplements thereto as and when such filing is required under §§6B-3A-2(a) and (b) of this  
 5 code and shall also be under obligation to cause such agent to comply with all the requirements of  
 6 sections §§6B-3A-4(a) and (b) and §6B-3A-5 of this code and all other requirements of this article.  
 7 Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer,  
 8 or person performing the functions of an officer, or any director, or person performing the functions  
 9 of a director, from complying with the provisions of this section. In case of failure of any such agent  
 10 of a foreign principal to comply with any of the requirements of this article, each of its officers, or  
 11 persons performing the functions of officers, and each of its directors, or persons performing the  
 12 functions of directors, shall be subject to prosecution therefor.

13 (b) No individual registered as a foreign agent may serve in any capacity in any  
 14 government entity in the State of West Virginia or be elected to any office in the State of West  
 15 Virginia.

**§6B-3A-8. Enforcement and penalties.**

1 (a) Any person who--  
 2 (1) Willfully violates any provision of this article or any regulation thereunder, or  
 3 (2) In any registration statement or supplement thereto or in any other document filed with  
 4 or furnished to the Secretary of State of West Virginia under the provisions of this article willfully  
 5 makes a false statement of a material fact or willfully omits any material fact required to be stated  
 6 therein or willfully omits a material fact or a copy of a material document necessary to make the  
 7 statements therein and the copies of documents furnished therewith not misleading, shall, upon  
 8 conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more  
 9 than five years, or both, except that in the case of a violation of subdivisions (b), (e), or (f) of §6B-  
 10 3A-4 of this code or of subdivisions (g) or (h) of this §6B-3A-8 of this code the punishment shall be  
 11 a fine of not more than \$5,000 or imprisonment for not more than six months, or both.

12 (b) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any  
13 provision of this article or any regulation thereunder shall, upon sentencing for such conviction by  
14 the court in which the case was tried, be transferred to the custody of United States Immigration  
15 and Customs Enforcement for disposition.

16 (c) Failure to file any such registration statement or supplements thereto as is required by  
17 either §6B-3A-2(a) or §6B-3A-2(b) of this code shall be considered a continuing offense for as long  
18 as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

19 (d) Whenever in the judgment of the Secretary of State of West Virginia any person is  
20 engaged in or about to engage in any acts which constitute or will constitute a violation of any  
21 provision of this article, or regulations issued thereunder, or whenever any agent of a foreign  
22 principal fails to comply with any of the provisions of this article or the regulations issued  
23 thereunder, or otherwise is in violation of the article, the Secretary of State of West Virginia may  
24 make application to the appropriate courts in the State of West Virginia for an order enjoining such  
25 acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an  
26 order requiring compliance with any appropriate provision of the article or regulation thereunder.  
27 The courts of the State of West Virginia shall have jurisdiction and authority to issue a temporary or  
28 permanent injunction, restraining order or such other order which it may deem proper.

29 (e) If the Secretary of State of West Virginia determines that a registration statement does  
30 not comply with the requirements of this article or the regulations issued thereunder, he or she  
31 shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall  
32 be unlawful for any person to act as an agent of a foreign principal at any time ten days or more  
33 after receipt of such notification without filing an amended registration statement in full compliance  
34 with the requirements of this article and the regulations issued thereunder.

35 (f) It shall be unlawful for any agent of a foreign principal required to register under this  
36 article to be a party to any contract, agreement, or understanding, either express or implied, with  
37 such foreign principal pursuant to which the amount or payment of the compensation, fee, or other

38 remuneration of such agent is contingent in whole or in part upon the success of any political  
39 activities carried on by such agent.

**§6B-3A-9. Applicability of the act.**

1 This article shall be applicable in the State of West Virginia.

**§6B-3A-10. Rules and regulations.**

1 The Secretary of State of West Virginia may at any time make, prescribe, amend, and  
2 rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions  
3 of this article.

**§6B-3A-11. Reports to the Legislature of the State of West Virginia.**

1 The Secretary of State of West Virginia shall every six months report each January to the  
2 Legislature of The State Of West Virginia concerning administration of this article, including  
3 registrations filed pursuant to this article, and the nature, sources and content of political  
4 propaganda disseminated and distributed, as well as other activities identified in this article.

NOTE: The purpose of this bill is to revise and/or establish requirements, prohibitions and regulation of foreign principals or agents of foreign principals, lobbying by or on behalf of such foreign principals or their agents, and to establish criminal liabilities and fines for violations of the requirements applicable to such foreign principals or their agents.

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