

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §§ 6B-2-2(a), 6B-2A-1 and 6B-3-2.

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 20

TITLE OF RULE BEING PROPOSED: Forms

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON May 14, 2010 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Ethics Commission

210 Brooks Street, Suite 300

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4/11/2010 *Chase M. Ke*

BRIEF SUMMARY OF PROPOSED RULE
Title 158, Series 20, Forms

The Ethics Act requires that public servants and lobbyists file various forms with the Ethics Commission. An overview of the types of forms include: (1) lobbyist registration statements; (2) lobbyist expenditure reports; and, (3) financial disclosure statements. West Virginia Code § 6B-2A-1 states that the Commission shall prepare these forms in a manner set forth in a Legislative Rule. As such, it appears that the Legislature contemplated that public servants, lobbyists, or both, should have a formal means of making recommended changes to forms.

Historically, the Commission has made revisions to its forms over the years in response to comments from filers and based upon its own attempt to seek to clarify and simplify the form. The proposed Rule is an attempt to formalize the Commission's practice in regard to preparing and modifying forms required to be filed with the Commission. It provides an informal means for public servants or lobbyists to make an oral or written request to the Commission's Executive Director. The Rule further provides that if the Executive Director or his or her designee declines to make the requested change, then the requester may seek a formal advisory opinion from the Commission. The proposed rule also incorporates a proposed Lobbyist Registration Statement that West Virginia Code § 6B-3-2(a) appears to require.

STATEMENT OF CIRCUMSTANCES
Title 158, Series 20, Forms

The Ethics Act contains various language relating to disclosure forms, statements and reports prepared by the West Virginia Ethics Act. Upon reviewing its enabling Legislation, the Commission determined that proposing a Legislative Rule appeared to be the most conservative means of complying with somewhat confusing language in the Ethics Act governing forms, to wit: W.Va. Code § 6B-2A-1(b) .

**TITLE 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION**

**SERIES 20
Forms**

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§ 158-20-1. General.

1.1. Scope. -- This legislative rule relates to forms created by the Ethics Commission for filings by public servants and lobbyists.

1.2. Authority. -- W. Va. Code §§ 6B-2-2(a), 6B-2A-1 and 6B-3-2.

1.3. Filing Date. --

1.4. Effective Date. --

§ 158-20-2. Definition.

Form shall mean any form, report or statement that W. Va. Code § 6B-1-1 *et seq.* requires to be filed with the WV Ethics Commission.

§ 158-20-3. General Rules.

3.1. Any financial disclosure forms or lobbyist registration statements or reports required to be prepared by the Commission shall be made available for inspection and review upon the Commission's website and upon request.

3.2. Any person who is required to file a form in accordance with the requirements of the Ethics Act, W. Va. Code §§ 6B-1-1 *et seq.*, may request that a form be modified.

3.3. A request that a form be modified may be made orally or in writing to the Executive Director of the Ethics Commission. The Executive Director or his or her designee shall reply to a request within the following time frames:

- a. Oral requests - An oral response shall be provided within five business days.
- b. Written request - A written response shall be provided within ten business days.

c. For purposes of calculating days, the day of the receipt of the request shall not be included or Saturdays, Sundays and legal holidays. A written response shall be considered timely if postmarked by the due date.

3.4. If the Executive Director or his or her designee declines to make the requested modification, the requester may submit a formal advisory opinion request to the Ethics Commission. Any such request must comply with the requirements of W. Va. Code § 6B-2-3(a). The Ethics Commission shall rule upon the request within sixty days of receipt of the request. In calculating this period, the day of the receipt

of the request shall not be included.

§ 158-20-4. Lobbyist Registration Forms.

4.1. Lobbyists shall register on a form which is the same as the form attached as Appendix A to this rule. If the Commission implements electronic registration, then the electronic form shall be substantially similar.

4.2. Lobbyists shall submit a written authorization from each of the their employers confirming the lobbyist's employment and the subjects on which the employer is to be represented on a form which is the same as the form attached as Appendix B to this rule. If the Commission implements electronic registration, then the electronic form shall be substantially similar

WV Ethics Commission
210 Brooks St., Suite 300
Charleston WV 25301
304-558-0664

Employer Representation / Authorization West Virginia Lobbyist 20xx-20xx



Important: This form is to be completed and signed by the Employer and the Lobbyist. It is valid through 20XX unless cancelled, changed or amended in writing before that time.

Note: All questions must be completed or the form will be returned.

Important information

- ☐ A fee of \$100.00 and this completed Representation form is required for each entity that you represent as a lobbyist.
☐ Paid by check ☐ credit card ☐ (This is in addition to the base lobbyist registration fee of \$100.00)
☐ Is this your initial registration? A completed Lobbyist Registration (LRS-1) must accompany this form.
☐ Is this an additional representation? An Amended Lobbyist Registration Statement must accompany this form.

1. Lobbyist name as listed on Lobbyist Registration form (form LRS-1)

Lobbyist name _____ Registration number (if known) _____
Email: _____ Phone: _____ Fax: _____

2. Represented Employer, Organization or Association

- Name _____
Complete name of represented Employer, Organization or Association
- Mailing address: _____ phone: _____
_____ fax: _____
- Occupation or type of business: _____
- Provide a general description of the subjects, topics or issues which will be the focus of lobbying efforts

3. Lobbyist information for this employer/authorization

- Check only one: ☐ Retained solely as lobbyist
☐ Unpaid volunteer
☐ Regular employee, services include but are not limited to lobbying
- Is the lobbyist employed or retained under any agreement, arrangement or understanding by which any compensation paid to the lobbyist is contingent upon the success of his or her lobbying activity?
Yes _____ No _____ Not applicable _____
- Lobbyist Signature: X _____ Date: _____

4. Employer certification

I certify that the lobbyist named above is authorized to lobby on our behalf, and that to the best of my knowledge, this Statement of Representation is true, correct and complete. For questions or to obtain instructions for completing this form, please contact the Ethics Commission or refer to the website www.wvethicscommission.org.

Authorized Signature: X _____ Date: _____
Type or print name: _____ Title: _____
Email address: _____

Return this completed form
and all attachments to:
WV Ethics Commission
210 Brooks Street, Ste 300
Charleston WV 25301
Phone: 304 558-0664

Lobbyist Registration

West Virginia Lobbyist 20xx-20xx



This registration is valid through end of 20xx.

Registration no. _____

(assigned by Ethics Commission)

(LRS-1)

Important filing requirements for the lobbyist:

- ____ Payment to the WV Ethics Commission for \$100.00 for your base lobbyist registration fee. Paid by check ☐ or CCard ☐
- ____ Recent passport-type photo, approximately 2"x2" to create a photo ID and to publish in the lobbyist directory. Attached ☐ or Electronic ☐
- ____ A separate Representation Form for each entity that you represent plus an additional fee of \$100.00 per entity.

☐ Mark here if this form amends earlier information supplied by you. Please indicate the changes or additions you wish to make to your registration or representation information. If you are terminating your registration or your representation for a client or clients, please attach a completed Termination Report to this form.

1. Lobbyist contact information (please print clearly)

Lobbyist name: _____ Phone: (____) _____

Fax: _____

Email: _____ Alternate Phone _____

Name to use on Lobbyist ID Badge: _____

Please provide complete address information. Check the box next to your preferred mailing address

☐ Business Address (required) _____ phone: _____

☐ Home Address: _____ phone: _____

Temporary or Legislative Session address (if different)

Business Address: _____ phone: _____

2. Representations*

List all employers or entities for which you are registering to lobby. A separate **Representation form** must accompany this form for each listed employer, organization or entity that you represent. You may add additional Statements of Representation any time after your initial registration. Each representation requires a fee of \$100.00

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

* If you are not representing a particular employer or organization, provide a general description of the subjects, topics or issues which will be the focus of your lobbying efforts. _____

3. Persons employed by lobbyist to lobby (if any)

4. Lobbyist certification and signature

To the best of my knowledge, the information contained hereon and on any attached materials is true, correct and complete. I understand that it is a violation of WV Code 6B-3-9 to willfully and knowingly file a false or incomplete report. I further understand that any person who fails to comply with the lobbyist registration and reporting requirements of the Ethics Act may be subject to administrative prosecution by the Ethics Commission. For any questions or instructions for completing this form please contact the Ethics Commission or refer to the website www.wvethicscommission.org

Lobbyist Signature _____ Date _____