

West Virginia Ethics Commission



Voting Provisions of the WV Ethics Act

Voting on Certain Matters is Prohibited

Public officials may not vote on a matter in which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest.

Public officials or their immediate family members are considered to be “associated” with a business if either the public official or an immediate family member is a director, officer, owner, employee or compensated agent, or if he/she owns 5% or more of the outstanding stock of any class.

Family and Relatives

The Act defines *immediate family* to include the spouse with whom an individual is living as husband or wife as well as any dependent children, dependent grandchildren or dependent parents.

The Act defines *relative* as a husband or wife, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

Public Officials May Not Vote

Public officials may not vote on a personnel matter involving the public official’s spouse or relative.

The Ethics Act further prohibits voting to appropriate public funds or to award a contract to a non-profit corporation if the public official or an immediate family member is employed by the non-profit.

Further, a public official who is employed by a financial institution, and whose primary responsibilities with the institution include consumer and commercial lending, may not vote on a matter which involves a customer of the financial institution.

This prohibition only applies if the amount of the loan or loans to the customer exceeds \$15,000 in a calendar year, and the public official was directly involved in approving a loan to that customer within the past 12 months, or is currently considering such a loan.

Public Officials May Vote

Public officials may vote on a matter involving a spouse, immediate family member, relative, or business with which they are associated, if they are affected by the matter as a member of a profession, occupation, class of persons or class of businesses. The law defines a class as consisting of not less than five similarly situated persons or businesses.

A public official may vote on a matter affecting a publicly traded company so long as: (1) the public official and dependent family members individually or jointly own no more than 5% of the company's issued stock; (2) the value of the stock individually or jointly owned is less than \$10,000, and (3) prior to casting a vote, the public official discloses his or her interest in the publicly traded company.

Members of the Legislature

Legislative voting is governed by a separate provision in the Ethics Act. Legislators are permitted to vote after obtaining a ruling from the presiding officer in their chamber regarding any potential conflict. Legislators who have asked to be excused from voting, or who have made inquiry as to whether they should be excused from voting on a particular matter, and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of an Ethics Act voting violation for a vote so cast.

How Recusal Works

For a public official's recusal from voting to be effective, the Ethics Act requires that he excuse himself from participating in the discussion and the decision-making process by physically removing himself from the room during the period. The public official also must fully disclose her interests and recuse herself from voting on the issue.

The meeting's minutes should reflect the recusal and the reason for the recusal.

West Virginia Ethics Commission

210 BROOKS STREET, SUITE 300
CHARLESTON, WV 25301-1804
(304) 558-0664 - FAX (304) 558-2169
ethics@wv.gov www.ethics.wv.gov

Revised 10/19/2016