

## Contract Exemption 2026-05

Issued on February 5, 2026, by

The West Virginia Ethics Commission

### Opinion Sought

The **Snowshoe Resort District** requests a Contract Exemption allowing it to contract with David Dragan, board member, to serve as its interim manager.

### Facts Relied Upon by the Commission

The Pocahontas County Commission created Snowshoe Resort Community District ("District"), a public corporation, pursuant to the WV Resort Area District Act, [W. Va. Code §§ 7-25-1 through 27](#). The Requester asserts:

The District provides infrastructure and essential services within its boundaries. The interests of all real property owners, whether it's undeveloped land, private homes, private apartments, or commercial property -- other than the profit-making operations of the resort operator, are of concern to the District as it seeks to meet its goals of developing the area. The District is similar to a small city that contains within its footprint the Snowshoe Ski Resort ("Resort"). The Resort is owned by [Snowshoe Mountain, Inc.](#), whose parent company is Alterra Mountain Company. The interests of the Resort are distinct from the District but align in providing a safe and thriving area that is attractive for guests and residents.

The District is governed by a seven-member board of directors who represent the Resort and the property owners in the district. W. Va. Code § 7-25-10. The District board members are elected by the district property owners. *Id.* The Board employs a manager and three rangers.

The Requester seeks to have David Dragan, a District board member, act as interim manager while the Board searches for its next manager. Mr. Dragan would remain as a board member during this interim period. The Board would like to pay Mr. Dragan \$44 per hour for approximately 20-25 hours of work per week.

According to the Requester:

Per its bylaws, the Board complies with the provisions of the West Virginia Governmental Ethics Act. The Board meets once a month for approximately two hours. Committees also meet periodically. Daily operations are overseen by the District Manager, a full-time employee. The manager is responsible for the District's operations.

Pocahontas County, WV, is entirely rural with a small population. The county seat is Marlinton with a population of less than one thousand, per the 2020 census. The District has fewer than three hundred permanent residents.

The District manager resigned, effective January 9, 2026. There is no subordinate to call upon to assume the manager's duties. The board has begun its process to replace the manager. In the interim, a temporary manager is essential to conduct the business of the District including but not limited to keeping the office open; oversight of the ranger department that provides for the public's safety; notification of, receipt and managing resort service fee and assessment collections; responding to property owners, homeowner associations, resort management and others requests whether by phone, email, or from the website; committee participation; and preparing for board meetings and follow-up on board-approved projects. In addition, there are year-end obligations related to finances; collaboration with the Shavers Fork Fire and Rescue; two pending WV FOIA requests; pending building plans and other projects [collectively: "essential functions"].

The Board has appointed an ad hoc committee to immediately begin the process of hiring a new District manager which includes revising the job description, posting notices and soliciting resumes, interviewing and hiring. The Board chair is chairing this committee.

The lack of a manager during the interim period creates a substantial interference with the business of the District and an undue hardship. There is no assistant manager who can fill the position, board members are part-time and the majority hold other full-time jobs. Without a manager, the District cannot perform its essential functions.

In the absence of any viable temporary hire, Mr. David Dragan, a board member, has offered to serve in the interim. He has volunteered his time to date. He anticipates he could work approximately 20-25 hours per week. Mr. Dragan is retired, lives within the District and has been involved with the District since its inception. He is the only board member who can perform the essential functions with any consistency because of the other six board members, four are full-time employees of the Resort, and the remaining two live several hours away. Mr. Dragan has clearly stated that he has no interest in seeking this position permanently. Mr. Dragan would like to remain on the Board during the interim. . . .

Thus far, other than expressing a willingness to take on this assignment with the Board's chair, Mr. Dragan has not taken part in any discussion of hiring him on an interim basis. . . .

With the grant of a temporary exemption to Mr. Dragan and the SRCD Board, the essential functions of the District will continue to be met, so that the business of the District including both financial matters, property owner requests and oversight of the Ranger Department can continue.

Should the exemption be granted, Mr. Dragan will recuse himself from all decisions, discussion and votes related to his temporary employment.

### **Provisions Relied Upon by the Commission**

W. Va. Code § 6B-2-5(d)(1) states, in relevant part:

[N]o elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control.... Provided, however, That nothing herein shall prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

W. Va. Code § 6B-2-5(d)(3) states, in relevant part:

If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

W. Va. Code § 61-10-15(a) states, in relevant part:

It is unlawful for any... county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member..., he or she may have any voice, influence or control....

W. Va. Code § 61-10-15(h) states, in relevant part:

Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue

hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

## **Opinion**

### *Prohibited contract*

The Ethics Act prohibits a public official or employee and businesses with which he or she is associated from having more than a limited interest in the profits or benefits of a contract over which he or she has direct authority or control unless his or her governing body seeks, and receives, an exemption to contract with the public official or their associated business. W. Va. Code § 6B-2-5(d). As a District Board member, Mr. Dragan has direct authority or control over the District's contracts, and none of the exceptions in subsection (d) apply in this situation. In particular, the exception afforded to part-time board members does not apply to elected board members. See [Advisory Opinion 2013-25](#) (holding that elected conservation district officials have direct authority or control over landowner applications and are not entitled to the exception provided to part-time appointed board members in W. Va. Code § 6B-2-5(d)(1) because the conservation district officials are elected.)<sup>1</sup>

### *Undue hardship*

The Ethics Commission may grant an exemption from the prohibition in W. Va. Code § 61-10-15 if the prohibition would result in excessive cost, undue hardship, or other substantial interference with the operation of a governmental body or agency. W. Va. Code § 61-10-15(h). The Requester states with no assistant manager who can fill the position, there is no other viable option than to contract with Mr. Dragan while the committee searches for a new Manager. Without a manager, the District cannot perform its essential functions.<sup>2</sup> With the grant of a temporary exemption, the essential functions of the District will continue to be met, so that the business of the District including financial matters, property owner requests, and oversight of the ranger department can continue.

---

<sup>1</sup>W. Va. Code § 61-10-15(h) sets the same standard for granting a contract exemption as W. Va. Code § 6B-2-5(d)(4) in the Ethics Act. If it is later deemed that the board members of a resort district are subject to W. Va. Code § 61-10-15, then this contract exemption is meant to apply.

<sup>2</sup>The Ethics Commission has held that a hardship may either be to an agency or a citizen adversely impacted by the public contract restrictions. For example, in [Contract Exemption 2007-01](#), the Ethics Commission held that it would create a hardship to a county commissioner's tenant to require the county commissioner to cease renting a residential unit to her.

**The Ethics Commission hereby grants the Snowshoe Resort District a Contract Exemption allowing it to contract with David Dragan at a rate of \$44 per hour for up to 25 hours per week under the following conditions:**

1. The Contract Exception will be in effect for one year, until February 5, 2027. If the Requester wants to continue contracting with David Dragan beyond that date, it must seek and receive another contract exemption. The Requester must again demonstrate that it took meaningful efforts to find a new Manager.
2. David Dragan must recuse himself from decisions, discussions, and votes relating to his contract and rental payments and services. He must follow the restrictions in W. Va. Code § 6B-2-5(j). For recusal to be proper, he must first fully disclose on the record his disqualifying interest and leave the room during the discussion, deliberation, and vote on the matter. In addition, the minutes or record of the meeting must reflect the basis for the recusal and that Mr. Dragan left the room during all consideration, discussion, and vote on the contract and payment for his services. W. Va. Code § 6B-2-5(j)(3).
3. The District may pay Mr. Dragan for his past services under the same terms.

*The Ethics Commission notes that exemptions must be granted on a case-by-case basis. Therefore, this Contract Exemption is limited to the facts and circumstances of this particular case and may not be relied upon as precedent by other persons or entities.*

/s/ Robert J. Wolfe  
Robert J. Wolfe, Chairperson  
West Virginia Ethics Commission

