

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 198

Session of
1977

INTRODUCED BY MESSRS. GARZIA, DOYLE, MORRIS, COLE, RUGGIERO,
O'KEEFE, STAPLETON, TENAGLIO AND REED, FEBRUARY 9, 1977

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 24, 1977

AN ACT

1 Regulating the contractual powers of individuals serving in
2 State or State agencies and local political subdivision
3 positions and prohibiting certain State employees from
4 engaging in post State employment conflict of interest
5 activities.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The following words and phrases when used in this
9 act shall have, unless the context clearly indicates otherwise,
10 the meanings given to them in this section:

11 "Executive-level State employee." The Governor, Lieutenant
12 Governor, cabinet members, deputy secretaries, the Governor's
13 office staff, any State employee with discretionary powers which
14 may affect the outcome of a State agency's decision in relation
15 to a private corporation or business or any employee who by
16 virtue of his job function could influence the outcome of such a
17 decision.

18 "State consultant." A person who, as an independent
19 contractor, performs professional, scientific, technical or

1 advisory service for a State agency, and who receives a fee,
2 honorarium or similar compensation for such services. A "State
3 consultant" is not an executive-level employee.

4 Section 2. No former executive-level State employee may for
5 a period of two years from the time that he terminates his State
6 employment be employed by, receive compensation from, assist or
7 act in a representative capacity for a business or corporation
8 that he actively participates in recruiting to the Commonwealth
9 of Pennsylvania or that he actively participated in inducing to
10 open a new plant, facility or branch in the Commonwealth or that
11 he actively participated in inducing to expand an existent plant
12 or facility within the Commonwealth, provided that the above
13 prohibition shall be invoked only when the recruitment or
14 inducement is accomplished by a grant or loan of money or a
15 promise of a grant or loan of money from the Commonwealth to the
16 business or corporation recruited or induced to expand.

17 Section 3. (a) Any individual who holds an appointive
18 office in the Commonwealth or any of its agencies or in a
19 political subdivision of this Commonwealth shall not have an
20 interest respectively in any contract or construction in which
21 the Commonwealth or its agencies or that political subdivision
22 respectively shall enter or have an interest.

23 (b) Any person violating the provisions of this section
24 shall be barred for a period of five years from engaging in any
25 business or contract with any political subdivision of this
26 Commonwealth.

27 (c) For purposes of this section the term "interest" shall
28 MEAN AND INCLUDE A FINANCIAL INTEREST IN WHICH THE INDIVIDUAL,
29 OR A PARTNERSHIP, CORPORATION OR ASSOCIATION OF WHICH THE
30 INDIVIDUAL IS A MEMBER OR OWNER, MAY RECEIVE MONETARY PROFIT,

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1 DIRECTLY OR INDIRECTLY AS A RESULT OF THE ACTIVITIES, ACTIONS,
2 ORDERS OR DECISIONS MADE BY SUCH INDIVIDUAL OR A PROPRIETARY
3 INTEREST IN WHICH REAL ESTATE OWNED BY THE INDIVIDUAL, OR BY A
4 PARTNERSHIP, CORPORATION OR ASSOCIATION OF WHICH THE INDIVIDUAL
5 IS A MEMBER OR OWNER, MAY BENEFIT DIRECTLY OR INDIRECTLY AS A
6 RESULT OF THE ACTIVITIES, ACTIONS, ORDERS OR DECISIONS MADE BY
7 SUCH INDIVIDUAL. THE TERM "INTEREST" SHALL not include the
8 ownership of shares of stock in any corporation in an amount of
9 5% or less of the total issue for said corporation nor shall it
10 include any contract or construction award where more than two
11 competitive bids were received after public notice of bidding
12 and where such bids were publicly opened.

13 Section 4. Any person who violates any of the provisions of
14 this act shall be guilty of a misdemeanor and, upon conviction
15 thereof, shall be sentenced to pay a fine not exceeding \$1,000
16 or to be imprisoned for a term not exceeding one year, or both,
17 and in addition shall forfeit the proscribed employment,
18 contract, assistance or representation and any fees, salaries or
19 consideration obtained through that employment, contract,
20 assistance or representation.

21 Section 5. The Attorney General shall, upon request, issue
22 advisory opinions to any present or former State employee who
23 contemplates terminating his State employment and/or becoming
24 employed by, contracting with, assisting or acting in a
25 representative capacity for a business or corporation. That
26 opinion shall state whether, upon the facts presented, such
27 employment, contract, assistance or representation would be in
28 violation of the provisions of this act. If the advisory opinion
29 states that such employment, contract, assistance or
30 representation would not be in violation of the provisions of

1 this act, the person who requested the opinion may not be
2 prosecuted or penalized, either criminally or civilly, under the
3 provisions of this act provided that the actions under question
4 bear a substantial similarity to the facts presented to the
5 Attorney General.

6 Section 6. If at any time a commission or board of ethics,
7 with responsibility for establishing and enforcing ethical
8 standards for officers and employees of the executive branch of
9 government, is provided for by statute, the duty of issuing
10 advisory opinions, pursuant to this act, to present or former
11 State employees shall be transferred from the Attorney General
12 to said statutory board or commission.

13 Section 7. This act shall take effect in six months.