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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL  
No. 198

Session of  
1977

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

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SENATOR LEWIS, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,  
JUNE 13, 1978

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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~~

~~contractor, performs professional, scientific, technical or  
advisory service for a State agency, and who receives a fee,  
honorarium or similar compensation for such services. A "State  
consultant" is not an executive level employee.~~

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

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

SECTION 1. (A) ANY INDIVIDUAL WHO HOLDS AN APPOINTIVE OR  
ELECTIVE OFFICE IN A POLITICAL SUBDIVISION OF THIS COMMONWEALTH  
SHALL NOT HAVE AN INTEREST RESPECTIVELY IN ANY CONTRACT OR  
CONSTRUCTION IN WHICH THE POLITICAL SUBDIVISION SHALL ENTER OR  
HAVE AN INTEREST.

(b) Any person violating the provisions of this section  
shall be barred for a period of five years from engaging in any

1 business or contract with any political subdivision of this  
2 Commonwealth.

3 (c) For purposes of this section the term "interest" shall  
4 mean and include a financial interest in which the individual,  
5 or a partnership, corporation or association of which the  
6 individual is a member or owner, may receive monetary profit,  
7 directly or indirectly as a result of the activities, actions,  
8 orders or decisions made by such individual or a proprietary  
9 interest in which real estate owned by the individual, or by a  
10 partnership, corporation or association of which the individual  
11 is a member or owner, may benefit directly or indirectly as a  
12 result of the activities, actions, orders or decisions made by  
13 such individual. The term "interest" shall not include the  
14 ownership of shares of stock in any corporation in an amount of  
15 5% or less of the total issue for said corporation nor shall it  
16 include any contract or construction award where more than two  
17 competitive bids were received after public notice of bidding  
18 and where such bids were publicly opened.

19 SECTION 2. NO INDIVIDUAL WHO HOLDS AN APPOINTIVE OR ELECTIVE <—  
20 OFFICE IN A POLITICAL SUBDIVISION OF THIS COMMONWEALTH SHALL:

21 (1) ACCEPT OTHER EMPLOYMENT WHICH WILL IMPAIR HIS  
22 INDEPENDENCE OF JUDGMENT IN THE EXERCISE OF HIS OFFICIAL  
23 DUTIES;

24 (2) IMPROPERLY DISCLOSE CONFIDENTIAL INFORMATION  
25 ACQUIRED BY HIM IN THE COURSE OF HIS OFFICIAL DUTIES NOR USE  
26 SUCH INFORMATION TO FURTHER HIS PERSONAL INTERESTS;

27 (3) USE OR ATTEMPT TO USE HIS OFFICIAL POSITION TO  
28 SECURE UNWARRANTED PRIVILEGES OR EXEMPTIONS FOR HIMSELF OR  
29 OTHERS; OR

30 (4) ACCEPT ANY GIFT, FAVOR OR SERVICE THAT MIGHT

1 REASONABLY TEND TO INFLUENCE HIM IN THE DISCHARGE OF HIS  
2 OFFICIAL DUTIES.

3 Section 4 3. Any person who violates any of the provisions <—  
4 of this act shall be guilty of a misdemeanor and, upon  
5 conviction thereof, shall be sentenced to pay a fine not  
6 exceeding \$1,000 or to be imprisoned for a term not exceeding  
7 one year, or both, and in addition shall EITHER forfeit the <—  
8 proscribed employment, contract, assistance or representation  
9 and any fees, salaries or consideration obtained through that  
10 employment, contract, assistance or representation OR FORFEIT <—  
11 HIS OFFICE OF PUBLIC TRUST.

12 ~~Section 5. The Attorney General shall, upon request, issue <—~~  
13 ~~advisory opinions to any present or former State employee who~~  
14 ~~contemplates terminating his State employment and/or becoming~~  
15 ~~employed by, contracting with, assisting or acting in a~~  
16 ~~representative capacity for a business or corporation. That~~  
17 ~~opinion shall state whether, upon the facts presented, such~~  
18 ~~employment, contract, assistance or representation would be in~~  
19 ~~violation of the provisions of this act. If the advisory opinion~~  
20 ~~states that such employment, contract, assistance or~~  
21 ~~representation would not be in violation of the provisions of~~  
22 ~~this act, the person who requested the opinion may not be~~  
23 ~~prosecuted or penalized, either criminally or civilly, under the~~  
24 ~~provisions of this act provided that the actions under question~~  
25 ~~bear a substantial similarity to the facts presented to the~~  
26 ~~Attorney General.~~

27 ~~Section 6. If at any time a commission or board of ethics,~~  
28 ~~with responsibility for establishing and enforcing ethical~~  
29 ~~standards for officers and employees of the executive branch of~~  
30 ~~government, is provided for by statute, the duty of issuing~~

1 ~~advisory opinions, pursuant to this act, to present or former~~  
2 ~~State employees shall be transferred from the Attorney General~~  
3 ~~to said statutory board or commission.~~

4 SECTION 4. ANY INDIVIDUAL COVERED BY THIS ACT SHALL ON OR <—  
5 BEFORE JANUARY 31 OF EACH YEAR, FILE WITH THE COUNTY CLERK OF  
6 THE COUNTY IN WHICH THEY RESIDE A WRITTEN STATEMENT OF WHICH  
7 SHALL BECOME A MATTER OF PUBLIC RECORD AND SHALL INCLUDE:

8 (1) EVERY OFFICE OR DIRECTORSHIP HELD BY HIMSELF OR HIS  
9 SPOUSE IN ANY CORPORATION, PARTNERSHIP OR ASSOCIATION WHICH  
10 IS SUBJECT TO THE JURISDICTION OF THE POLITICAL SUBDIVISION  
11 IN WHICH HE LIVES.

12 (2) A LIST SHOWING EACH TYPE OF BUSINESS OR BUSINESS  
13 ACTIVITY FROM WHICH HE RECEIVED COMPENSATION IN EXCESS OF  
14 \$1,500 DURING THE PRECEDING 12-MONTH PERIOD BY VIRTUE OF HIS  
15 BEING AN OFFICIAL, DIRECTOR, EMPLOYEE, PARTNER OR MEMBER OF,  
16 OR BEING RETAINED BY, ANY PERSON, CORPORATION, PARTNERSHIP OR  
17 OTHER BUSINESS ASSOCIATION, CONDUCTING OR CARRYING ON SUCH  
18 BUSINESS OR BUSINESS ACTIVITY.

19 (3) AS TO ATTORNEYS, ACCOUNTANTS OR OTHERS PRACTICING  
20 BEFORE REGULATORY AGENCIES DURING THE PRECEDING 12-MONTH  
21 PERIOD, THE NAME OF THE AGENCY OR AGENCIES AND THE NAME OF  
22 THE FIRM, PARTNERSHIP OR ASSOCIATION OF WHICH HE IS A MEMBER,  
23 PARTNER OR EMPLOYEE.

24 SECTION 5. IF AT ANY TIME A COMMISSION OR BOARD OF ETHICS,  
25 WITH RESPONSIBILITY FOR ESTABLISHING AND ENFORCING ETHICAL  
26 STANDARDS FOR ANY INDIVIDUAL WHO HOLDS AN APPOINTIVE OR ELECTIVE  
27 OFFICE IN A POLITICAL SUBDIVISION OF THIS COMMONWEALTH, IS  
28 PROVIDED FOR BY STATUTE, THE DUTY OF ISSUING ADVISORY OPINIONS,  
29 PURSUANT TO THIS ACT, SHALL BE TRANSFERRED FROM THE ATTORNEY  
30 GENERAL TO SAID STATUTORY BOARD OR COMMISSION.

1       Section 7 6.   This act shall take effect in six months.

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