

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 75

Session of
1989

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SCRIMENTI AND BISHOP, JANUARY 24, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 15, 1989

AN ACT

1 Reenacting and amending the act of October 4, 1978 (P.L.883,
2 No.170), entitled "An act relating to conflicts of interest
3 involving certain public officials serving in State or State
4 agencies and local political subdivision positions and
5 prohibiting certain public employees from engaging in certain
6 conflict of interest activities requiring certain disclosures
7 and providing penalties," adding definitions; further
8 providing for the membership, powers and duties of the State
9 Ethics Commission and for persons who must file statements of
10 financial interests; reestablishing the State Ethics
11 Commission; and making an appropriation.

12 The General Assembly of the Commonwealth of Pennsylvania

13 hereby enacts as follows:

14 Section 1. The title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9
15 and 10 of the act of October 4, 1978 (P.L.883, No.170), referred
16 to as the Public Official and Employee Ethics Law, are reenacted
17 and amended to read:

1 AN ACT

2 Relating to conflicts of interest involving certain public
3 officials serving in State or State agencies and local
4 political subdivision positions and prohibiting certain
5 public employees from engaging in certain conflict of
6 interest activities requiring certain disclosures and
7 providing penalties.

8 Section 1. Purpose.

9 (a) The Legislature hereby declares that public office is a
10 public trust and that any effort to realize personal financial
11 gain through public office other than compensation provided by
12 law is a violation of that trust. In order to strengthen the
13 faith and confidence of the people of the State in their
14 government, the Legislature further declares that the people
15 have a right to be assured that the financial interests of
16 holders of or nominees or candidates for public office do not
17 [present neither a conflict nor the appearance of a] conflict
18 with the public trust. Because public confidence in government
19 can best be sustained by assuring the people of the impartiality
20 and honesty of public officials, this act shall be liberally
21 construed to promote complete disclosure. Furthermore, it is
22 recognized that clear guidelines are needed in order to guide
23 public officials and employees in their actions. Thus, the
24 General Assembly by this act intends to define as clearly as
25 possible those areas which represent conflict with the public
26 trust.

27 (b) It is recognized that many public officials, including
28 most local officials and members of the General Assembly, are
29 citizen-officials who bring to their public office the knowledge
30 and concerns of ordinary citizens and taxpayers. They should not

1 be discouraged from maintaining their contacts with their
2 community through their occupations and professions. Thus, in
3 order to foster maximum compliance with its terms, this act
4 shall be administered in a manner that emphasizes guidance to
5 public officials and public employees regarding the ethical
6 standards established by this act.

7 (c) It is the intent of the General Assembly that this act
8 be administered by an independent commission composed of members
9 who are cognizant of the responsibilities and burdens of public
10 officials and employees and who have demonstrated an interest in
11 promoting public confidence in government.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall
14 have, unless the context clearly indicates otherwise, the
15 meanings given to them in this section:

16 "Advice." Any directive of the general counsel of the
17 commission issued under section 7(11) and based exclusively on
18 prior commission opinions, this act, regulations promulgated
19 pursuant to this act, and court opinions which interpret this
20 act.

21 "Authority of office or employment." The actual power
22 provided by law, the exercise of which is necessary to the
23 performance of duties and responsibilities unique to a
24 particular public office or position of public employment.

25 "Business." Any corporation, partnership, sole
26 proprietorship, firm, enterprise, franchise, association,
27 organization, self-employed individual, holding company, joint
28 stock company, receivership, trust or any legal entity organized
29 for profit.

30 "Business with which he is associated." Any business in

1 which the person or a member of the person's immediate family is
2 a director, officer, owner, employee or [holder of stock] has a
3 financial interest.

4 "Candidate." Any individual who seeks nomination or election
5 to public office by vote of the electorate, other than a judge
6 or inspector of elections or official of a political party,
7 whether or not such individual is nominated or elected. An
8 individual shall be deemed to be seeking nomination or election
9 to such office if he has:

10 (1) received a contribution or made an expenditure or
11 given his consent for any other person or committee to
12 receive a contribution or make an expenditure for the purpose
13 of influencing his nomination or election to such office,
14 whether or not the individual has announced the specific
15 office for which he will seek nomination or election at the
16 time the contribution is received or the expenditure is made;
17 or

18 (2) taken the action necessary under the laws of this
19 Commonwealth to qualify himself for nomination or election to
20 such office.

21 The term shall include individuals nominated or elected as
22 write-in candidates unless they resign such nomination or
23 elected office within 30 days of having been nominated or
24 elected.

25 "Commission." The State Ethics Commission.

26 ["Compensation." Anything of economic value, however
27 designated, which is paid, loaned, granted, given, donated or
28 transferred, or to be paid, loaned, granted, given, donated or
29 transferred for or in consideration of personal services to any
30 person, official or to the State.]

1 "CONFIDENTIAL INFORMATION." INFORMATION NOT OBTAINABLE FROM
2 REVIEWING A PUBLIC DOCUMENT OR FROM MAKING INQUIRY TO A PUBLICLY
3 AVAILABLE SOURCE OF INFORMATION.

4 "Conflict" or "conflict of interest." Use by a public
5 official or public employee of the authority of his office or
6 employment or any confidential information received through his
7 holding public office or employment for the private pecuniary
8 benefit of himself, a member of his immediate family or a
9 business with which he or a member of his immediate family is
10 associated. "Conflict" or "conflict of interest" does not
11 include an action having a de minimis economic impact or which
12 affects to the same degree a class consisting of the general
13 public or a subclass consisting of an industry, occupation or
14 other group which includes the public official or public
15 employee, a member of his immediate family or a business with
16 which he or a member of his immediate family is associated.

17 "Contract." An agreement or arrangement for the acquisition,
18 use or disposal by a State or political subdivision of
19 consulting or other services or of supplies, materials,
20 equipment, land or other personal or real property. "Contract"
21 shall not mean an agreement or arrangement between the State or
22 political subdivision as one party and a public official or
23 public employee as the other party, concerning his expense,
24 reimbursement, salary, wage, retirement or other benefit, tenure
25 or other matters in consideration of his current public
26 employment with a State or political subdivision.

27 "De minimis economic impact." An economic consequence which
28 has an insignificant effect.

29 "Executive-level State employee." The Governor, Lieutenant
30 Governor, cabinet members, deputy secretaries, the Governor's

1 office staff, any State employee with discretionary powers which
2 may affect the outcome of a State agency's decision in relation
3 to a private corporation or business or any employee who by
4 virtue of his job function could influence the outcome of such a
5 decision.

6 "Financial interest." Any financial interest in a legal
7 entity engaged in business for profit which comprises more than
8 5% of the equity of the business or more than 5% of the assets
9 of the economic interest in indebtedness.

10 "Findings report." An initial report containing findings of
11 fact as determined by the commission's investigation but not
12 containing any conclusions of law or any determination of
13 whether there has been a violation of law.

14 "Frivolous complaint." A complaint filed in a grossly
15 negligent manner without basis in law or fact.

16 "Gift." [A payment, subscription, advance, forbearance,
17 rendering or deposit of money, services or anything of value,
18 unless consideration of equal or greater value is received]
19 Anything which is received without the exchange of consideration
20 of equal value. "Gift" shall not include a political
21 contribution otherwise reported as required by law[,] or a
22 commercially reasonable loan made in the ordinary course of
23 business[, or a gift received from a member of the person's
24 immediate family or from a relative within the third degree of
25 consanguinity of the person or of the person's spouse or from
26 the spouse of any such relative].

27 "Governmental body." Any department, authority, commission,
28 committee, council, board, bureau, division, service, office,
29 officer, administration, legislative body, or other
30 establishment in the Executive, Legislative or Judicial Branch

1 of the State or a political subdivision thereof.

2 "Governmental body with which a public official or public
3 employee is or has been associated." The entity within State
4 government or a political subdivision by which the public
5 official or employee is or has been employed or to which the
6 public official or employee is or has been appointed or elected
7 AND SUBDIVISIONS AND OFFICES WITHIN THAT ENTITY. <—

8 "Honorarium." Payment made in recognition of published
9 works, appearances, speeches and presentations and which is not
10 intended as consideration for the value of such services WHICH <—
11 ARE NONPUBLIC OCCUPATIONAL OR PROFESSIONAL IN NATURE. THE TERM
12 DOES NOT INCLUDE TOKENS PRESENTED OR PROVIDED WHICH ARE OF DE
13 MINIMIS ECONOMIC IMPACT.

14 "Immediate family." [A spouse residing in the person's <—
15 household and minor dependent children.] A PARENT, SPOUSE, <—
16 CHILD, BROTHER OR SISTER.

17 "Income." Any money or thing of value received, or to be
18 received as a claim on future services or in recognition of
19 services rendered in the past, whether in the form of a payment,
20 fee, salary, expense, allowance, forbearance, forgiveness,
21 interest, dividend, royalty, rent, capital gain, reward,
22 severance payment, proceeds from the sale of a financial
23 interest in a corporation, professional corporation, partnership
24 or other entity resulting from termination or withdrawal
25 therefrom upon assumption of public office or employment or any
26 other form of recompense or any combination thereof. "Income"
27 refers to gross income and includes prize winnings and tax-
28 exempt income. The term does not include honoraria, gifts,
29 GOVERNMENTALLY MANDATED PAYMENTS OR BENEFITS, retirement, <—
30 pension or annuity payments funded totally by contributions of

1 the public official or employee, or miscellaneous, incidental
2 income of minor dependent children.

3 "Indirect interest in real estate." Any business entity the
4 assets of which are 80% or more in real property.

5 "Ministerial action." An action that a person performs in a
6 prescribed manner in obedience to the mandate of legal
7 authority, without regard to, or the exercise of, the person's
8 own judgment as to the desirability of the action being taken.

9 "Nominee." Any person whose name has been submitted to a
10 public official or governmental body vested with the power to
11 finally confirm or reject proposed appointments to public office
12 or employment.

13 "Nonministerial actions." An action in which the person
14 exercises his own judgment as to the desirability of the action
15 taken.

16 "Opinion." A directive of the commission issued pursuant to
17 section 7(10) setting forth a public official's or public
18 employee's duties under this act.

19 "Order." A directive of the commission issued pursuant to
20 section 7(13) at the conclusion of an investigation which
21 contains findings of fact, conclusions of law and penalties.

22 "Person." A business, governmental body, individual,
23 corporation, union, association, firm, partnership, committee,
24 club or other organization or group of persons.

25 "Political contribution." Any advance, conveyance, deposit,
26 distribution, transfer of funds, loan, payment, pledge, purchase
27 of a ticket to a testimonial or similar fund-raising affair, or
28 subscription of money or anything of value, except volunteer
29 services, in connection with a political campaign, and any
30 contract, agreement, promise, or other obligations, whether or

1 not legally enforceable, to make a political contribution.

2 "Political subdivision." Any county, city, borough,
3 incorporated town, township, school district, vocational school,
4 county institution district, and any authority, entity or body
5 organized by the aforementioned.

6 "Public employee." Any individual employed by the
7 Commonwealth or a political subdivision who is responsible for
8 taking or recommending official action of a nonministerial
9 nature with regard to:

10 (1) contracting or procurement;

11 (2) administering or monitoring grants or subsidies;

12 (3) planning or zoning;

13 (4) inspecting, licensing, regulating or auditing any
14 person; or

15 (5) any other activity where the official action has an
16 economic impact of greater than a de minimis nature on the
17 interests of any person.

18 "Public employee" shall not include individuals who are employed
19 by the State or any political subdivision thereof in teaching as
20 distinguished from administrative duties.

21 "Public official." Any [elected] person elected by the
22 public or appointed official in the Executive, Legislative or
23 Judicial Branch of the State or any political subdivision
24 thereof, provided that it shall not include members of advisory
25 boards that have no authority to expend public funds other than
26 reimbursement for personal expense, or to otherwise exercise the
27 power of the State or any political subdivision thereof.

28 ["Public official" shall not include any appointed official who
29 receives no compensation other than reimbursement for actual
30 expenses.]

1 "Represent." To act on behalf of any other person in any
2 activity which includes, but is not limited to, the following:
3 personal appearances, negotiations, lobbying and submitting bid
4 or contract proposals which are signed by or contain the name of
5 a former public official or public employee.

6 "State consultant." A person who, as an independent
7 contractor, performs professional, scientific, technical or
8 advisory service for a State agency, and who receives a fee,
9 honorarium or similar compensation for such services. A "State
10 consultant" is not an executive-level employee.

11 Section 3. Restricted activities.

12 (a) [No public official or public employee shall use his
13 public office or any confidential information received through
14 his holding public office to obtain financial gain other than
15 compensation provided by law for himself, a member of his
16 immediate family, or a business with which he is associated] No
17 public official or public employee shall engage in conduct that
18 constitutes a conflict of interest.

19 (b) No person shall offer or give to a public official, [or]
20 public employee or nominee or candidate for public office or a
21 member of his immediate family or a business with which he is
22 associated, based on the offeror's or donor's understanding that
23 the vote, official action or judgment of the public official or
24 public employee or nominee or candidate for public office would
25 be influenced thereby, and no public official, [or] public
26 employee or nominee or candidate for public office shall solicit
27 or accept, anything of monetary value, including a gift, loan,
28 political contribution, reward, or promise of future employment
29 based on any understanding of that public official, public
30 employee or nominee that the vote, official action, or judgment

1 of the public official or public employee or nominee or
2 candidate for public office would be influenced thereby.

3 (c) (1) No public official or public employee shall accept
4 an honorarium.

5 (2) This subsection shall not be applied retroactively.

6 (d) (1) No person shall solicit or accept a severance
7 payment or anything of monetary value contingent upon the
8 assumption or acceptance of public office or employment.

9 (2) This subsection shall not prohibit:

10 (i) Payments received pursuant to an employment
11 agreement in existence prior to the time a person becomes
12 a candidate or ~~receives notice that he~~ IS NOTIFIED BY A <—
13 MEMBER OF A TRANSITION TEAM, A SEARCH COMMITTEE OR A
14 PERSON WITH APPOINTIVE POWER THAT HE is under
15 consideration for public office or makes application for
16 public employment.

17 (ii) Receipt of a salary, fees, severance payment or
18 proceeds resulting from the sale of a person's interest
19 in a corporation, professional corporation, partnership
20 or other entity resulting from termination or withdrawal
21 therefrom upon the assumption or acceptance of public
22 office or employment.

23 (3) Payments made or received pursuant to paragraph
24 (2)(i) and (ii) shall not be based on the agreement, written
25 or otherwise, that the vote or official action of the
26 prospective public official or employee would be influenced
27 thereby.

28 (4) This subsection shall not be applied retroactively.

29 [(c)] (e) No public official or public employee or [a member
30 of his immediate family or any business in which the person or a

1 member of the person's immediate family is a director, officer,
2 owner or holder of stock exceeding 5% of the equity at fair
3 market value of the business] his spouse or child or any
4 business in which the person or his spouse or child is
5 associated shall enter into any contract valued at \$500 or more
6 [with a governmental body unless the contract has been awarded
7 through an open and public process, including prior public
8 notice and subsequent public disclosure of all proposals
9 considered and contracts awarded] with the governmental body
10 with which the public official or public employee is associated
11 or any subcontract valued at \$500 or more with any person who
12 has been awarded a contract with the governmental body with
13 which the public official or public employee is associated,
14 unless the contract has been awarded through an open and public
15 process, including prior public notice and subsequent public
16 disclosure of all proposals considered and contracts awarded.
17 Any contract or subcontract made in violation of this subsection
18 shall be voidable by a court of competent jurisdiction if the
19 suit is commenced within 90 days of the making of the contract
20 or subcontract.

21 [(d) Other areas of possible conflict shall be addressed by
22 the commission pursuant to paragraph (9) of section 7.]

23 [(e)] (f) No former public official or public employee shall
24 represent a person, with [or without] PROMISED OR ACTUAL <—
25 compensation, on any matter before the governmental body with
26 which he has been associated for one year after he leaves that
27 body.

28 [(f)] (g) No person shall use for any commercial purpose
29 information copied from statements of financial interests
30 required by this act or from lists compiled from such

1 statements.

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

15 [(h) (1) Any individual who holds an appointive office in
16 any political subdivision shall not have an interest in any
17 contract or construction in which that political subdivision
18 shall enter or have an interest.

19 (2) Any person violating the provisions of this
20 subsection shall be barred for a period of five years from
21 engaging in any business or contract with any political
22 subdivision or the Commonwealth or any of its agencies.

23 (3) For purposes of this subsection the term "interest"
24 shall not include the ownership of shares of stock in any
25 corporation in an amount of 5% or less of the total issue for
26 said corporation.]

27 (i) Where voting conflicts are not otherwise addressed by
28 the Constitution of Pennsylvania or by any law, rule,
29 regulation, order or ordinance, the following procedure shall be
30 employed. Any public official or public employee, who in the

1 discharge of his official duties, would be required to vote on a
2 matter that would result in a conflict of interest shall abstain
3 from voting and, prior to the vote being taken, publicly
4 announce and disclose the nature of his interest as a public
5 record in a written memorandum filed with the person responsible
6 for recording the minutes of the meeting at which the vote is
7 taken, provided that whenever a governing body would be unable
8 to take any action on a matter before it because a majority of
9 members of the body are required to abstain from voting under
10 the provisions of this subsection, then such members shall be
11 permitted to vote if disclosures are made as otherwise provided
12 herein.

13 Section 4. Statement of financial interests required to be
14 filed.

15 (a) Each public official of the Commonwealth shall file a
16 statement of financial interests for the preceding calendar year
17 with the commission no later than May 1 of each year that he
18 holds such a position and of the year after he leaves such a
19 position. Each public employee [employed by] and public official
20 of the Commonwealth shall file a statement of financial
21 interests for the preceding calendar year with the department,
22 agency, body or bureau in which he is employed or to which he is
23 appointed or elected no later than May 1 of each year that he
24 holds such a position and of the year after he leaves such a
25 position. Any other public employee or public official shall
26 file a statement of financial interests with the governing
27 authority of the political subdivision by which he is employed
28 or within which he is appointed or elected no later than May 1
29 of each year that he holds such a position and of the year after
30 he leaves such a position. PERSONS WHO ARE FULL-TIME OR PART-

<—

TIME SOLICITORS FOR POLITICAL SUBDIVISIONS ARE REQUIRED TO FILE
UNDER THIS SECTION.

[(b) Each candidate for public office shall file a statement of financial interests for the preceding calendar year with the commission prior to filing a petition to appear on the ballot for election as a public official. A petition to appear on the ballot shall not be accepted by an election official unless the petition includes an affidavit that the candidate has filed the required statement of financial interests with the commission.]

(b) (1) Any candidate for a State-level public office shall file a statement of financial interests for the preceding calendar year with the commission on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(2) Any candidate for county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the political subdivision in which he is a candidate on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(3) No petition to appear on the ballot for election shall be accepted by the respective State or local election officials unless the petition has appended thereto a statement of financial interests as set forth in paragraphs (1) and (2). Failure to file the statement in accordance with the provisions of this act shall, in addition to any other penalties provided, be a fatal defect to a petition to appear on the ballot.

1 (c) Each [candidate] nominee for public office [nominated by
2 a public official or governmental body and subject to
3 confirmation by a public official or governmental body] shall
4 file a statement of financial interests for the preceding
5 calendar year with the commission and with the official or body
6 that is vested with the power of confirmation at least ten days
7 before the official or body shall approve or reject the
8 nomination.

9 (d) No public official shall be allowed to take the oath of
10 office or enter or continue upon his duties, nor shall he
11 receive compensation from public funds, unless he has filed a
12 statement of financial interests [with the commission] as
13 required by this act.

14 (e) [(1) Any candidate for State or county-wide public
15 office shall file a statement of financial interests with the
16 commission pursuant to this act and shall file a copy of that
17 statement with the Board of Elections in the county in which
18 the candidate resides.

19 (2) Any candidate for local office shall file a
20 statement of financial interests with the commission pursuant
21 to this act and shall file a copy of that statement with the
22 governing authority of the political subdivision in which he
23 is a candidate.

24 (f)] All statements of financial interest filed pursuant to
25 the provisions of this act shall be made available for public
26 inspection and copying during regular office hours, and copying
27 facilities shall be made available at a charge not to exceed
28 actual cost.

29 Section 5. Statement of financial interests.

30 (a) The statement of financial interests filed pursuant to

1 this act shall be on a form prescribed by the commission. All
2 information requested on the statement shall be provided to the
3 best of the knowledge, information and belief of the person
4 required to file and shall be signed under [penalty of perjury
5 by the person required to file the statement] oath or equivalent
6 affirmation.

7 (b) The statement shall include the following information
8 for the prior calendar year with regard to the person required
9 to file the statement [and the members of his immediate family].

10 (1) [The name] Name, address and public position [of the
11 person required to file the statement].

12 (2) [The occupations or professions of the person
13 required to file the statement and those of his immediate
14 family] Occupation or profession.

15 (3) Any direct or indirect interest in any real estate
16 which was sold or leased to the Commonwealth, any of its
17 agencies or political subdivisions; purchased or leased from
18 the Commonwealth, any of its agencies or political
19 subdivisions; or which was the subject of any condemnation
20 proceedings by the Commonwealth, any of its agencies or
21 political subdivisions.

22 (4) The name and address of each creditor to whom is
23 owed in excess of \$5,000 and the interest rate thereon.
24 However, loans or credit extended between members of the
25 immediate family and mortgages securing real property which
26 is the principal or secondary residence of the person filing
27 [or of his spouse] shall not be included.

28 (5) The name and address of any [person who is the]
29 direct or indirect source of income totalling in the
30 aggregate [\$500] \$1,000 or more. However, this provision

1 shall not be construed to require the divulgence of
2 confidential information protected by statute or existing
3 professional codes of ethics or common law privileges.

4 [(6) The name and address of any person from whom a gift
5 or gifts valued in the aggregate at \$200 or more were
6 received, and the value and the circumstances of each gift.
7 However, this provision shall not be applicable to gifts
8 received from the individual's spouse, parents, parents by
9 marriage, siblings, children or grandchildren.

10 (7) The source of any honorarium received which is in
11 excess of \$100.]

12 (6) The name and address of the source and the amount of
13 any gift or gifts valued in the aggregate at \$200 or more
14 and the circumstances of each gift. This paragraph shall
15 not apply to a gift or gifts received from a spouse,
16 parent, parent by marriage, sibling, child, grandchild,
17 other family member or friend when the circumstances make
18 it clear that the motivation for the action was a
19 personal or family relationship. HOWEVER, FOR THE <—
20 PURPOSES OF THIS SUBSECTION, THE TERM "FRIEND" SHALL NOT
21 INCLUDE A REGISTERED LOBBYIST OR AN EMPLOYEE OF A
22 REGISTERED LOBBYIST. This paragraph shall not be applied
23 retroactively.

24 (7) (i) The name and address of the source and the
25 amount of any payment for or reimbursement of actual
26 expenses for transportation and lodging or hospitality
27 received in connection with public office or employment
28 where such actual expenses for transportation, lodging or
29 hospitality exceed \$200 in the course of a single
30 occurrence. This paragraph shall not apply to expenses

1 reimbursed by the governmental body with which the public
2 official or employee is associated.

3 (ii) This paragraph shall not be applied
4 retroactively.

5 (8) Any office, directorship or employment of any nature
6 whatsoever in any business entity.

7 (9) Any financial interest in any legal entity engaged
8 in business for profit.

9 (10) The identity of any financial interest in a
10 business with which the reporting person is or has been
11 associated in the preceding calendar year which has been
12 transferred to a member of the reporting person's immediate
13 family.

14 (c) [The] Except where an amount is required to be reported
15 pursuant to paragraphs (6) and (7), the statement of financial
16 [interest] interests need not include specific amounts for [any
17 of] the items required to be listed.

18 Section 6. State Ethics Commission.

19 (a) There is established a State Ethics Commission composed
20 of seven members[,]. The President pro tempore of the Senate,
21 the Minority Leader of the Senate, the Speaker of the House, and
22 the Minority Leader of the House shall each appoint one member.
23 Three members shall be appointed by the Governor without
24 confirmation. No more than two of the members appointed by the
25 Governor shall be of the same political party. No appointee
26 shall have served as an officer in a political party for one
27 year prior to his appointment.

28 (b) Members of the commission shall serve for terms of five
29 years[, except that, of the members first appointed:

30 (1) the two members appointed by the President pro

1 tempore and Minority Leader of the Senate shall serve for
2 four years;

3 (2) the two members appointed by the Speaker and the
4 Minority Leader of the House shall serve for two years; and

5 (3) of the three members appointed by the Governor two
6 shall serve for three years, and one shall serve for five
7 years].

8 (c) No member shall be appointed to more than one full five-
9 year term on the commission.

10 (d) No individual, while a member or employee of the
11 commission, shall:

12 (1) hold or campaign for any other public office;

13 (2) hold office in any political party or political
14 committee;

15 (3) actively participate in or contribute to any
16 political campaign;

17 (4) directly or indirectly attempt to influence any
18 decision by a governmental body, other than a court of law or
19 as a representative of the commission on a matter within the
20 jurisdiction of the commission; or

21 (5) be employed by the Commonwealth or a political
22 subdivision in any other capacity, whether or not for
23 compensation.

24 (e) A majority of the commission by resolution shall declare
25 vacant the position on the commission of any member who takes
26 part in activities prohibited by subsection (d). An individual
27 appointed to fill a vacancy occurring other than by the
28 expiration of a term of office shall be appointed for the
29 unexpired term of the member he succeeds, and is eligible for
30 appointment to one full five-year term thereafter. Any vacancy

1 occurring on the commission shall be filled within 30 days in
2 the manner in which that position was originally filled.

3 (f) The commission shall elect a chairman and a vice
4 chairman. The vice chairman shall act as chairman in the absence
5 of the chairman or in the event of a vacancy in that position.

6 (g) Four members of the commission shall constitute a quorum
7 and the votes of a majority of the members present is required
8 for any action or recommendation of the commission. The chairman
9 or any four members of the commission may call a meeting
10 provided that advance written notice is mailed to each member
11 and to any person who requests notice of such meetings.

12 (h) Members of the commission shall be compensated at a rate
13 of [\$50] \$125 per day and shall receive reimbursement for their
14 actual and necessary expenses while performing the business of
15 the commission.

16 (i) The commission shall employ an executive director, a
17 [general] chief counsel, and such other staff as are necessary
18 to carry out its duties pursuant to this act. The executive
19 director shall be responsible for the administrative operations
20 of the commission and shall perform such other duties as may be
21 delegated or assigned to him by the commission, except that the
22 commission shall not delegate the making of regulations to the
23 executive director. The [general] chief counsel shall be the
24 chief legal officer of the commission. The commission may obtain
25 the services of experts and consultants as necessary to carry
26 out its duties pursuant to this act. The State Treasurer and the
27 Attorney General shall make available to the commission such
28 personnel, facilities, and other assistance as the commission
29 may request.

30 Section 7. [Duties] Powers and duties of the commission.

1 In addition to other powers and duties prescribed by law, the
2 commission shall:

3 (1) Prescribe and publish rules and regulations to carry
4 out the provisions of this act.

5 (2) Prescribe forms for statements and reports required
6 to be filed by this act and furnish such forms to persons
7 required to file such statements and reports.

8 (3) Prepare and publish guidelines setting forth
9 recommended uniform methods of accounting and reporting for
10 use by persons required to file statements and reports by
11 this act.

12 (4) Accept and file any information voluntarily supplied
13 that exceeds the requirements of this act.

14 (5) Inspect statements of financial interests which have
15 been filed in order to ascertain whether any reporting person
16 has failed to file such a statement or has filed a deficient
17 statement. If, upon inspection, it is determined that a
18 reporting person has failed to file a statement of financial
19 interests or that any statement which has been filed fails to
20 conform with the requirements of section 5, then the
21 commission shall, in writing, notify the person. Such notice
22 shall state in detail the deficiency and the penalties for
23 failure to file or for filing a deficient statement of
24 financial interests.

25 [(5) Make] (6) Provide that statements and reports
26 filed with the commission be made available for public
27 inspection and copying during regular office hours and [make]
28 provide that copying facilities be made available at a charge
29 not to exceed actual cost and advise other State and local
30 agencies of the provisions of this paragraph.

1 [(6)] (7) Compile and maintain an index of all reports
2 and statements filed with the commission to facilitate public
3 access to such reports and statements and instruct other
4 State and local agencies which receive and file financial
5 interest statements in the maintenance of systems which
6 facilitate public access to such statements.

7 [(7)] (8) Prepare and publish annual summaries of
8 statements and reports filed with the commission.

9 [(8)] (9) Preserve statements and reports filed with the
10 commission for a period of five years from date of receipt
11 and advise other State and local agencies which receive and
12 store financial interests statements to preserve such
13 statements for a period of five years from date of receipt.

14 [(9) (i)] (10) Issue to any person, upon such person's
15 request, an opinion with respect to such person's duties
16 under this act. The commission shall, within 14 days, either
17 issue the opinion or advise the person who made the request
18 whether an opinion will be issued. No person who acts in good
19 faith on an opinion issued to him by the commission shall be
20 subject to criminal or civil penalties for so acting,
21 provided that the material facts are as stated in the opinion
22 request. The commission's opinions shall be public records
23 and may from time to time be published. The person requesting
24 the opinion may, however, require that the opinion shall
25 contain such deletions and changes as shall be necessary to
26 protect the identity of the persons involved.

27 [(ii)] (11) Provide written advice to any person or
28 the appointing authority or employer of said official, upon
29 their request with respect to such person's duties under this
30 act. Such advice shall be provided within 21 working days of

1 the request, provided that the time may be extended for good
2 cause. It shall be a complete defense in any enforcement
3 proceeding initiated by the commission, and evidence of good
4 faith conduct in any other civil or criminal proceeding, if
5 the requester, at least 21 working days prior to the alleged
6 violation, requested written advice from the commission in
7 good faith, disclosed truthfully all the material facts and
8 committed the acts complained of either in reliance on the
9 advice or because of the failure of the commission to provide
10 advice within 21 days of the request [of] or such later
11 extended time. THE PERSON REQUESTING THE ADVICE MAY, HOWEVER, <—
12 REQUIRE THAT THE ADVICE SHALL CONTAIN SUCH DELETIONS AND
13 CHANGES AS SHALL BE NECESSARY TO PROTECT THE IDENTITY OF THE
14 PERSONS INVOLVED.

15 [(iii)] (12) Initiate an inquiry, pursuant to
16 section 8(a), where [an opinion] a complaint has not been
17 ~~requested~~ [REQUESTED] FILED but where there is a reasonable <—
18 belief that a conflict may exist. [Such inquiry shall be
19 conducted in privacy with full respect to the confidentiality
20 of all the parties involved in the alleged conflict. If the
21 commission finds that there is a conflict, the information
22 shall be provided for criminal proceedings unless the alleged
23 offender removes himself from the conflict with receiving
24 financial gain.

25 (iv) Issue advisory opinions to any present or
26 former State employee who contemplates terminating his
27 State employment and/or becoming employed by, contracting
28 with, assisting or acting in a representative capacity
29 for a business or corporation, upon such employee's
30 request. That opinion shall state whether, upon the facts

1 presented, such employment, contract, assistance or
2 representation would be in violation of section 3(g). If
3 the advisory opinion states that such employment,
4 contract, assistance or representation would not be in
5 violation of the provisions of section 3(g), the person
6 who requested the opinion may not be prosecuted or
7 penalized, either criminally or civilly, under the
8 provisions of this act provided that the actions under
9 question bear a substantial similarity to the facts
10 presented to the commission.]

11 (13) Issue findings reports and orders relating to
12 investigations initiated pursuant to section 8, which set
13 forth the alleged violation, findings of fact and conclusions
14 of law. An order may include recommendations to law
15 enforcement officials. Any order resulting from a finding
16 that a public official or public employee has obtained a
17 financial gain in violation of this act may require the
18 restitution plus interest of that gain to the appropriate
19 governmental body. The commission or the Office of Attorney
20 General shall have standing to apply to the Commonwealth
21 Court to seek enforcement of an order requiring such
22 restitution. This restitution requirement shall be in
23 addition to any other penalties provided for in this act.

24 [(10)] (14) Hold hearings, take testimony, issue
25 subpoenas and compel the attendance of witnesses.

26 [(11)] (15) Make recommendations to law enforcement
27 officials either for criminal prosecution or dismissal of
28 charges arising out of violations of this act.

29 [(12)] (16) Prepare and publish special reports,
30 educational materials, and technical studies to further the

1 purposes of this act.

2 [(13)] (17) Prepare and publish, prior to June 1 of each
3 year, an annual report summarizing the activities of the
4 commission.

5 (18) Transmit, free of charge, copies of each order,
6 advice and opinion which has become a matter of public record
7 to the appointing authorities specified in section 6(a). <—

8 GOVERNOR, EACH MEMBER OF THE GENERAL ASSEMBLY AND AT LEAST <—
9 ONE PUBLIC LIBRARY IN EACH COUNTY.

10 (19) HOLD AT LEAST TWO PUBLIC HEARINGS EACH YEAR, OF
11 WHICH AT LEAST ONE SHALL BE HELD IN HARRISBURG AND AT LEAST
12 ONE SHALL BE HELD IN A LOCATION OTHER THAN HARRISBURG, TO
13 SEEK INPUT FROM PERSONS AND ORGANIZATIONS WHO REPRESENT ANY
14 INDIVIDUAL SUBJECT TO THE PROVISIONS OF THIS ACT AND FROM
15 OTHER INTERESTED PARTIES.

16 Section 8. Investigations by the commission.

17 (a) Upon a complaint signed under penalty of perjury by any
18 person or upon its own motion, the commission [shall
19 investigate], through its executive director, shall conduct a
20 preliminary inquiry into any alleged violation of this act. [All
21 commission proceedings and records relating to an investigation
22 shall be confidential until a final determination is made by the
23 commission. The executive director shall notify any person under
24 investigation by the commission of the investigation and of the
25 nature of the alleged violation within five days of the
26 commencement of the investigation. Within 15 days of the filing
27 of a sworn complaint by a person alleging a violation, and every
28 30 days thereafter until the matter is terminated, the executive
29 director shall notify the complainant of the action taken to
30 date by the commission together with the reasons for such action

1 or nonaction.] The commission shall keep information, records
2 and proceedings relating to a preliminary inquiry confidential.
3 The commission shall, however, have the authority to refer the
4 case to law enforcement officials during a preliminary inquiry
5 or anytime thereafter without providing notice to the subject of
6 the inquiry. The commission shall complete its preliminary
7 inquiry within 60 days of its initiation.

8 (b) If a preliminary [investigation] inquiry fails to
9 [indicate probable cause for belief] establish reason to believe
10 that this act has been violated, the commission shall terminate
11 the [investigation] inquiry and so notify the complainant and
12 the person who had been [under investigation.] the subject of
13 the inquiry. If the commission determines that a complaint is
14 frivolous, it shall so state.

15 (c) If a preliminary inquiry establishes reason to believe
16 that this act has been violated, the commission may, through its
17 executive director, initiate an investigation to determine if
18 there has been a violation. The commission shall keep
19 information, records and proceedings relating to an
20 investigation confidential until a final determination is made,
21 except as otherwise provided in subsection ~~(f)~~ (G). No <—
22 investigation may be commenced until the person who is the
23 subject of the investigation has been notified and provided a
24 general statement of the alleged violation or violations of the
25 act and other applicable statutes with respect to such
26 investigation. Service of notice is complete upon mailing which
27 shall be by certified or registered mail. The commission shall
28 notify the complainant within 72 hours of the commencement of an
29 investigation and, thereafter, the commission shall advise the
30 complainant and the person who is the subject of the

1 investigation of the status of the investigation at least every
2 90 days until the investigation is terminated. The commission
3 shall, within 180 days of the initiation of an investigation,
4 either terminate the investigation pursuant to subsection (d) or
5 issue a findings report pursuant to subsection (e). Upon a
6 showing by the executive director of the need for extension of
7 this period, the commission may extend an investigation for up
8 to two 90-day periods, provided that each 90-day extension shall
9 be approved by a majority vote of members present. In no event
10 shall a findings report be issued later than 360 days after
11 initiation of an investigation.

12 (d) If an investigation conducted under this act indicates
13 that no violation has been committed, the commission shall
14 immediately terminate the investigation and send written notice
15 of such determination to the complainant and the person who was
16 the subject of the investigation.

17 (e) The commission, upon the completion of an investigation,
18 shall issue a findings report to the subject of the
19 investigation setting forth the pertinent findings of fact. The
20 subject shall have the right to respond to said findings and to
21 request an evidentiary hearing on said matter. THE COMMISSION <—
22 SHALL GRANT ANY REQUEST FOR A HEARING. SAID HEARING SHALL BE
23 HELD IN HARRISBURG OR, AT THE REQUEST OF THE SUBJECT, IN EITHER
24 PHILADELPHIA OR PITTSBURGH. Any response to the findings report
25 must either admit or deny by corresponding number and letter the
26 pertinent facts set forth. The subject of the investigation
27 shall have access to any evidence intended to be used by the
28 commission at the hearing AND ANY EXCULPATORY EVIDENCE DEVELOPED <—
29 BY THE COMMISSION IN THE COURSE OF ITS INVESTIGATION. Matters
30 not specifically denied in the response shall be deemed

1 admitted. The response must be filed within 30 days of the
2 issuance of the findings report unless the time period is
3 extended by the commission for good cause shown. Hearings
4 conducted upon request shall be instituted within 45 days after
5 the filing of the response.

6 (f) Within 30 days of the receipt by the commission of the
7 hearing record, or if no hearing is to be held, within 30 days
8 of the receipt by the commission of the response to the findings
9 report, the commission shall issue an order which shall be
10 final. Upon receipt of a final order, the subject shall have the
11 right to file a petition for reconsideration in accordance with
12 the regulations of the commission.

13 (g) Hearings conducted pursuant to this section shall be
14 closed to the public unless the subject requests an open
15 hearing. Any person who appears before the commission shall have
16 all of the due process rights, privileges and responsibilities
17 of a party or witness appearing before an administrative agency
18 of this Commonwealth. All witnesses summoned for such hearings
19 shall receive reimbursement for reasonable expenses in
20 accordance with 42 Pa.C.S. § 5903 (relating to compensation and
21 expenses of witnesses). At the conclusion of a hearing
22 concerning an alleged violation and in a timely manner, the
23 commission shall deliberate on the evidence and determine, by
24 majority vote of the members present, whether there has been a
25 violation of this act. AT LEAST FOUR MEMBERS OF THE COMMISSION
26 PRESENT AT A MEETING MUST FIND A VIOLATION BEYOND A REASONABLE
27 DOUBT. THE NAMES OF THE MEMBERS FINDING A VIOLATION AND THE
28 NAMES OF THOSE DISSENTING AND ABSTAINING SHALL BE LISTED IN THE
29 ORDER. The determination of the commission, in the form of a
30 final order and findings of fact, shall be a matter of public

<—

1 record.

2 (h) Orders which become final in accordance with the
3 provisions of this section shall be available as public
4 documents, but the files and records of the commission relating
5 to the case shall remain confidential.

6 ~~(i) No action may be taken by the commission on a complaint~~ <—
7 ~~filed against a public official or public employee unless the~~
8 ~~alleged offense was committed during the period of time within~~
9 ~~which the official or employee was in public office, was a~~
10 ~~nominee or candidate for public office, or was employed as a~~
11 ~~public employee, or within five years thereafter.~~

12 ~~(j)~~ (I) Any person aggrieved by an opinion or order which <—
13 becomes final in accordance with the provisions of this act who
14 has direct interest in such opinion or order shall have the
15 right to appeal therefrom in accordance with law and general
16 rules.

17 ~~(k)~~ (J) No public official or public employee shall <—
18 discharge any official or employee or change his official rank,
19 grade or compensation, or deny him a promotion, or threaten to
20 do so, for filing a complaint with or providing information to
21 the commission or testifying in any commission proceeding. NO <—
22 MEMBER OF THE COMMISSION AND NO EMPLOYEE OF THE COMMISSION SHALL
23 DISCHARGE ANY EMPLOYEE OF THE COMMISSION OR CHANGE HIS OFFICIAL
24 RANK, GRADE OR COMPENSATION, OR THREATEN TO DO SO, FOR PROVIDING
25 ANY INFORMATION ABOUT THE INTERNAL OPERATIONS OF THE COMMISSION,
26 NOT REQUIRED BY LAW TO BE KEPT SECRET, TO ANY LEGISLATOR OR
27 LEGISLATIVE STAFF MEMBER, OR TESTIFYING IN ANY LEGISLATIVE
28 PROCEEDING.

29 (K) AS A GENERAL RULE, NO PERSON SHALL DISCLOSE OR <—
30 ACKNOWLEDGE, TO ANY OTHER PERSON, ANY INFORMATION RELATING TO A

1 COMPLAINT, PRELIMINARY INQUIRY, INVESTIGATION, HEARING OR
2 PETITION FOR RECONSIDERATION WHICH IS BEFORE THE COMMISSIONER.
3 HOWEVER, A PERSON MAY DISCLOSE OR ACKNOWLEDGE TO ANOTHER PERSON
4 MATTERS HELD CONFIDENTIAL IN ACCORDANCE WITH THIS SUBSECTION
5 WHEN THE MATTERS PERTAIN TO ANY OF THE FOLLOWING:

6 (1) FINAL ORDERS OF THE COMMISSION AS PROVIDED IN
7 SECTION 8(H);

8 (2) HEARINGS CONDUCTED IN PUBLIC PURSUANT TO SECTION
9 8(G);

10 (3) FOR THE PURPOSE OF SEEKING ADVICE OF LEGAL COUNSEL;

11 (4) FILING AN APPEAL FROM A COMMISSION ORDER;

12 (5) COMMUNICATING WITH THE COMMISSION OR ITS STAFF, IN
13 THE COURSE OF A PRELIMINARY INQUIRY, INVESTIGATION, HEARING
14 OR PETITION FOR RECONSIDERATION BY THE COMMISSION;

15 (6) CONSULTING WITH A LAW ENFORCEMENT OFFICIAL OR AGENCY
16 FOR THE PURPOSE OF INITIATING, PARTICIPATING IN OR RESPONDING
17 TO AN INVESTIGATION OR PROSECUTION BY THE LAW ENFORCEMENT
18 OFFICIAL OR AGENCY;

19 (7) TESTIFYING UNDER OATH BEFORE A GOVERNMENTAL BODY OR
20 A SIMILAR BODY OF THE UNITED STATES OF AMERICA;

21 (8) ANY INFORMATION, RECORDS OR PROCEEDINGS RELATING TO
22 A COMPLAINT, PRELIMINARY INQUIRY, INVESTIGATION, HEARING OR
23 PETITION FOR RECONSIDERATION WHICH THE PERSON IS THE SUBJECT
24 OF; OR

25 (9) SUCH OTHER EXCEPTIONS AS THE COMMISSION, BY
26 REGULATION, MAY DIRECT.

27 (1) The commission may conduct an investigation within five
28 years after the alleged occurrence of any violation of this act.

29 Section 9. Penalties.

30 (a) Any person who violates the provisions of section 3(a)

1 [and (b)] , (b) and (c) is guilty of a felony and shall be fined
2 not more than \$10,000 or imprisoned for not more than five
3 years, or be both fined and imprisoned.

4 (b) Any person who violates the provisions of section [3(c)]
5 3(d) through [(h) or] (i), section 4 or section 5(a) is guilty
6 of a misdemeanor and shall be fined not more than \$1,000 or
7 imprisoned for not more than one year, or be both fined and
8 imprisoned.

9 (c) Any person who obtains financial gain from violating any
10 provision of this act, in addition to any other penalty provided
11 by law, shall pay [into the State Treasury] a sum of money equal
12 to three times the amount of the financial gain resulting from
13 such violation into the State Treasury or the treasury of the
14 political subdivision. Treble damages shall not be assessed
15 against a person who acted in good faith reliance on the advice
16 of legal counsel.

17 (d) The penalties prescribed in this act do not limit the
18 power of either House of the Legislature to discipline its own
19 members or impeach a public official, and do not limit the power
20 of agencies or commissions to discipline officials or employees.

21 (e) Any person who violates the confidentiality of a
22 commission proceeding pursuant to section 8, is guilty of a
23 misdemeanor and shall be fined not more than \$1,000 or
24 imprisoned for not more than one year, or be both fined and
25 imprisoned. Any person who engages in retaliatory activity
26 proscribed by section ~~8(k)~~ 8(J) is guilty of a misdemeanor and, <—
27 in addition to any other penalty provided by law, shall be fined
28 not more than \$1,000 or imprisoned for not more than one year,
29 or be both fined and imprisoned. Any person who willfully
30 affirms or swears falsely in regard to any material matter

1 before a commission proceeding pursuant to section 8 is guilty
2 of a felony and shall be fined not more than \$5,000 or
3 imprisoned for not more than five years, or be both fined and
4 imprisoned.

5 (f) In addition to any other civil remedy or criminal
6 penalty provided for in this act, the commission may, after
7 notice has been served in accordance with paragraph (5) of
8 section 7 and upon a majority vote of its members, levy a civil
9 penalty upon any person subject to this act who fails to file a
10 statement of financial interests in a timely manner or who files
11 a deficient statement of financial interests, at a rate of not
12 more than \$25 for each day such statement remains delinquent or
13 deficient. The maximum penalty payable under this paragraph is
14 \$250.

15 (G) A PUBLIC OFFICIAL OF A POLITICAL SUBDIVISION WHO ACTS IN <—
16 GOOD FAITH RELIANCE ON A WRITTEN, NONCONFIDENTIAL OPINION OF THE
17 SOLICITOR OF THE POLITICAL SUBDIVISION OR UPON AN OPINION OF THE
18 SOLICITOR OF THE POLITICAL SUBDIVISION, PUBLICLY STATED AT AN
19 OPEN MEETING OF THE POLITICAL SUBDIVISION AND RECORDED IN THE
20 OFFICIAL MINUTES OF THE MEETING SHALL NOT BE SUBJECT TO THE
21 PENALTIES PROVIDED FOR IN SUBSECTIONS (A) AND (B), NOR FOR THE
22 TREBLE DAMAGES PROVIDED FOR IN SUBSECTION (C).

23 Section 10. [Court employees.] Constables.

24 Nothing in this act, or in any other law or court rule shall
25 be construed to prohibit any constable [or any employee of a
26 court of common pleas, the Municipal Court of Philadelphia, the
27 Traffic Court of Philadelphia, or any employee of a district
28 justice] from also being an officer of a political body or
29 political party as such terms are defined in the act of June 3,
30 1937 (P.L.1333, No.320), known as the "Pennsylvania Election

1 Code," and the same may hold the office of a county, State or
2 national committee of any political party, and may run for and
3 hold any elective office, and may participate in any election
4 day activities.

5 Section 2. The act is amended by adding a section to read:

6 Section 10.1. Wrongful use of act.

7 (a) A person who signs a complaint alleging a violation of
8 this act against another is subject to liability for wrongful
9 use of this act if:

10 (1) (i) he acted in a grossly negligent manner or
11 without probable cause and primarily for a purpose other than
12 that of reporting a violation of this act; or

13 (ii) he publicly disclosed or caused to be disclosed
14 that a complaint against a person had been filed with the
15 commission; and

16 (2) the complaint was frivolous as defined by this act
17 or there was a lack of probable cause for belief that this
18 act had been violated by the person.

19 (b) A person who signs a complaint alleging a violation of
20 this act has probable cause for doing so if he reasonably
21 believes in the existence of the facts upon which the claim is
22 based and either:

23 (1) reasonably believes that under those facts the
24 complaint may be valid under this act; or

25 (2) believes to this effect in reliance upon the advice
26 of counsel, sought in good faith and given after full
27 disclosure of all relevant facts within his knowledge and
28 information.

29 (c) When the commission determines that a complainant has
30 violated the provisions set forth in section 10.1(a) the

1 commission upon receiving a written request from the subject of
2 the complaint shall provide the name and address of the
3 complainant to said subject. IF THE COMMISSION DETERMINES THAT A <—
4 COMPLAINANT HAS NOT VIOLATED THE PROVISIONS OF SUBSECTION (A),
5 THE COMMISSION SHALL NOTIFY THE SUBJECT ACCORDINGLY. THE SUBJECT
6 SHALL HAVE THE RIGHT TO APPEAL THE COMMISSION'S DETERMINATION
7 AND THE COMMISSION SHALL SCHEDULE AN APPEAL HEARING. THE SUBJECT
8 SHALL SHOW CAUSE WHY THE COMPLAINANT VIOLATED THE PROVISIONS OF
9 THIS SECTION. IF THE COMMISSION GRANTS THE APPEAL, THE
10 COMMISSION SHALL IMMEDIATELY RELEASE THE COMPLAINANT'S NAME AND
11 ADDRESS TO THE SUBJECT. IF THE COMMISSION DENIES THE APPEAL, IT
12 SHALL PRESENT EVIDENCE WHY THE COMPLAINANT'S NAME AND ADDRESS
13 SHALL NOT BE RELEASED.

14 (d) When the essential elements of an action brought
15 pursuant to this section have been established, the plaintiff is
16 entitled to recover for the following:

17 (1) The harm to his reputation by a defamatory matter
18 alleged as the basis of the proceeding.

19 (2) The expenses, including any reasonable attorney
20 fees, that he has reasonably incurred in proceedings before
21 the commission.

22 (3) Any specific pecuniary loss that has resulted from
23 the proceedings.

24 (4) Any emotional distress that has been caused by the
25 proceedings.

26 (5) Any punitive damages according to law in appropriate
27 cases.

28 Section 3. Sections 11 and 12 of the act are reenacted and
29 amended to read:

30 Section 11. Supplemental provisions.

1 Any governmental body may adopt requirements to supplement
2 this act, provided that no such [requirement] requirements shall
3 in any way be less restrictive than the act.

4 Section 12. Conflict of law.

5 ~~(a)~~ If the provisions of this act conflict with any other <—
6 statute, ordinance, regulation or rule, the provisions of this
7 act shall control.

8 ~~(b) It is the intent of the General Assembly that all law <—~~
9 ~~relating to the ethics of public officials and public employees~~
10 ~~shall be unambiguously stated in this act. Therefore, in the~~
11 ~~event of a conflict between this act and any other civil or~~
12 ~~criminal statute, whether enacted prior or subsequent to the~~
13 ~~passage of this act, this act shall prevail unless all or a~~
14 ~~portion of this act is specifically and expressly repealed.~~

15 Section 4. Section 13 of the act is reenacted to read:
16 Section 13. Severability.

17 If any provision of this act, or the application thereof to
18 any person or circumstance, is held invalid, the validity of the
19 remainder of this act and the application of such provisions to
20 other persons and circumstances shall not be affected thereby.

21 Section 5. Section 14 of the act, amended February 26, 1979
22 (P.L.1, No.1), is reenacted to read:

23 Section 14. Effective date.

24 This act shall take effect January 1, 1979 except that
25 subsections (b) and (e) of section 4 shall take effect August 1,
26 1979 and subsections (a) and (d) of section 4 shall take effect
27 January 1, 1980: Provided, however, That the Ethics Commission
28 shall have the power and duty to require the filing of the
29 financial disclosure statements of candidates for elective
30 office between August 1, 1979 and January 1, 1980 at least 60

1 days prior to such election, or in the case of a special
2 election at least 15 days prior to such election.

3 Section 6. Persons who are members of the State Ethics
4 Commission on the effective date of this act shall serve until
5 their current terms have expired and shall be subject to the
6 additional restrictions of section 6(d)(3) and (5) of the act of
7 October 4, 1978 (P.L.883, No.170), referred to as the Public
8 Official and Employee Ethics Law, unless a current commissioner
9 was employed by a political subdivision on or before the
10 effective date of this amendatory act, in which case the
11 restriction set forth in section 6(d)(5) shall not apply.

12 Section 7. All rules and regulations promulgated by the
13 State Ethics Commission shall remain in full force and effect
14 until amended or rescinded by the commission, provided that the
15 commission shall immediately initiate action to rescind or amend
16 any rule or regulation that is in conflict with the provisions
17 of this amendatory act or to promulgate additional regulations
18 which may be required to implement the provisions of this
19 amendatory act.

20 Section 8. This act, with respect to the State Ethics
21 Commission, constitutes the legislation required to reestablish
22 an agency pursuant to the act of December 22, 1981 (P.L.508,
23 No.142), known as the Sunset Act. The State Ethics Commission
24 shall continue, together with its statutory functions and
25 duties, until December 31, 1994, when it shall terminate and go
26 out of existence unless reestablished or continued by the
27 General Assembly for an additional ten years. Evaluation,
28 review, termination, reestablishment and continuation of the
29 agency beyond December 31, 1994, and every tenth year
30 thereafter, shall be conducted pursuant to the Sunset Act.

1 Section 9. This amendatory act shall not apply to violations
2 committed prior to the effective date of this act, and causes of
3 action initiated for such violations shall be governed by the
4 prior law, which is continued in effect for that purpose as if
5 this act were not in force. For the purposes of this section, a
6 violation was committed prior to the effective date of this act
7 if any elements of the violation occurred prior thereto.

8 Section 10. The sum of \$30,000 is hereby appropriated to the
9 State Ethics Commission for the indexing of all opinions, orders
10 or advice of the commission, and for the maintenance of this
11 index.

12 SECTION 11. THIS ACT SHALL APPLY AS FOLLOWS: <—

13 (1) SECTION 1 (THE DEFINITIONS IN SECTION 2 OF THE ACT
14 THAT ARE USED IN SECTIONS 4 AND 5 OF THE ACT, INSOFAR AS THE
15 DEFINITIONS RELATE TO SECTIONS 4 AND 5) SHALL APPLY TO
16 OCCURRENCES WHICH TAKE PLACE AFTER THE EFFECTIVE DATE OF THIS
17 ACT.

18 (2) SECTION 1 (SECTIONS 4 AND 5 OF THE ACT) SHALL APPLY
19 TO OCCURRENCES WHICH TAKE PLACE AFTER THE EFFECTIVE DATE OF
20 THIS ACT.

21 Section ~~11~~ 12. This act shall take effect immediately. <—