
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 75

Session of
1989

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SCRIMENTI, BISHOP, LANGTRY AND BROUJOS, JANUARY 24, 1989

SENATOR LOEPER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, AS
AMENDED, MAY 23, 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

1 and amended to read:

2 AN ACT

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

9 Section 1. Purpose.

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

28 (b) It is recognized that many public officials, including
29 most local officials and members of the General Assembly, are
30 citizen-officials who bring to their public office the knowledge

1 and concerns of ordinary citizens and taxpayers. They should not
2 be discouraged from maintaining their contacts with their
3 community through their occupations and professions. Thus, in
4 order to foster maximum compliance with its terms, this act
5 shall be administered in a manner that emphasizes guidance to
6 public officials and public employees regarding the ethical
7 standards established by this act.

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

13 Section 2. Definitions.

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

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

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

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

1 "Business with which he is associated." Any business in
2 which the person or a member of the person's immediate family is
3 a director, officer, owner, employee or [holder of stock] has a
4 financial interest.

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

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

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

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

26 "Commission." The State Ethics Commission.

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

1 person, official or to the State.]

2 "Confidential information." Information not obtainable from
3 reviewing a public document or from making inquiry to a publicly
4 available source of information.

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

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

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

30 "Executive-level State employee." The Governor, Lieutenant

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

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

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

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

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

28 "Governmental body." Any department, authority, commission,
29 committee, council, board, bureau, division, service, office,
30 officer, administration, legislative body, or other

1 establishment in the Executive, Legislative or Judicial Branch
2 of the State or a political subdivision thereof.

3 "Governmental body with which a public official or public
4 employee is or has been associated." The entity within State
5 government or a political subdivision by which the public
6 official or employee is or has been employed or to which the
7 public official or employee is or has been appointed or elected
8 and subdivisions and offices within that entity.

9 "Honorarium." Payment made in recognition of published
10 works, appearances, speeches and presentations and which is not
11 intended as consideration for the value of such services which
12 are nonpublic occupational or professional in nature. The term
13 does not include tokens presented or provided which are of de
14 minimis economic impact.

15 "Immediate family." [A spouse residing in the person's
16 household and minor dependent children.] A parent, spouse,
17 child, brother or sister.

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

pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children.

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

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

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

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

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

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

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

"Political contribution." Any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fund-raising affair, or subscription of money or anything of value, except volunteer services, in connection with a political campaign, and any

contract, agreement, promise, or other obligations, whether or not legally enforceable, to make a political contribution.

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

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

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

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

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

["Public official" shall not include any appointed official who receives no compensation other than reimbursement for actual

1 expenses.]

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

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

12 Section 3. Restricted activities.

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

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

1 employee or nominee that the vote, official action, or judgment
2 of the public official or public employee or nominee or
3 candidate for public office would be influenced thereby.

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

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

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

10 (2) This subsection shall not prohibit:

11 (i) Payments received pursuant to an employment
12 agreement in existence prior to the time a person becomes
13 a candidate or is notified by a member of a transition
14 team, a search committee or a person with appointive
15 power that he is under consideration for public office or
16 makes application for 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. IN <—
17 SUCH A CASE, THE PUBLIC OFFICIAL OR PUBLIC EMPLOYEE SHALL NOT
18 HAVE ANY SUPERVISORY OR OVERALL RESPONSIBILITY FOR THE
19 IMPLEMENTATION OR ADMINISTRATION OF THE CONTRACT. Any contract
20 or subcontract made in violation of this subsection shall be
21 voidable by a court of competent jurisdiction if the suit is
22 commenced within 90 days of the making of the contract or
23 subcontract.

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

26 [(e)] (f) No former public official or public employee shall
27 represent a person, with [or without] promised or actual
28 compensation, on any matter before the governmental body with
29 which he has been associated for one year after he leaves that
30 body.

1 ~~[(f)]~~ (g) No person shall use for any commercial purpose
2 information copied from statements of financial interests
3 required by this act or from lists compiled from such
4 statements.

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

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

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

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

30 (i) Where voting conflicts are not otherwise addressed by

1 the Constitution of Pennsylvania or by any law, rule,
2 regulation, order or ordinance, the following procedure shall be
3 employed. Any public official or public employee, who in the
4 discharge of his official duties, would be required to vote on a
5 matter that would result in a conflict of interest shall abstain
6 from voting and, prior to the vote being taken, publicly
7 announce and disclose the nature of his interest as a public
8 record in a written memorandum filed with the person responsible
9 for recording the minutes of the meeting at which the vote is
10 taken, provided that whenever a governing body would be unable
11 to take any action on a matter before it because a majority of
12 members of the body are required to abstain from voting under
13 the provisions of this subsection, then such members shall be
14 permitted to vote if disclosures are made as otherwise provided
15 herein. IN THE CASE OF A THREE-MEMBER GOVERNING BODY, WHERE ONE <—
16 MEMBER HAS ABSTAINED FROM VOTING AS A RESULT OF A CONFLICT OF
17 INTEREST, AND THE REMAINING TWO MEMBERS OF THE GOVERNING BODY
18 HAVE CAST OPPOSING VOTES, THE MEMBER WHO HAS ABSTAINED SHALL BE
19 PERMITTED TO VOTE TO BREAK THE TIE VOTE IF DISCLOSURE IS MADE AS
20 OTHERWISE PROVIDED HEREIN.

21 Section 4. Statement of financial interests required to be
22 filed.

23 (a) Each public official of the Commonwealth shall file a
24 statement of financial interests for the preceding calendar year
25 with the commission no later than May 1 of each year that he
26 holds such a position and of the year after he leaves such a
27 position. Each public employee [employed by] and public official
28 of the Commonwealth shall file a statement of financial
29 interests for the preceding calendar year with the department,
30 agency, body or bureau in which he is employed or to which he is

1 appointed or elected no later than May 1 of each year that he
2 holds such a position and of the year after he leaves such a
3 position. Any other public employee or public official shall
4 file a statement of financial interests with the governing
5 authority of the political subdivision by which he is employed
6 or within which he is appointed or elected no later than May 1
7 of each year that he holds such a position and of the year after
8 he leaves such a position. Persons who are full-time or part-
9 time solicitors for political subdivisions are required to file
10 under this section.

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

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

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

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

9 (c) Each [candidate] nominee for public office [nominated by
10 a public official or governmental body and subject to
11 confirmation by a public official or governmental body] shall
12 file a statement of financial interests for the preceding
13 calendar year with the commission and with the official or body
14 that is vested with the power of confirmation at least ten days
15 before the official or body shall approve or reject the
16 nomination.

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

22 (e) [(1) Any candidate for State or county-wide public
23 office shall file a statement of financial interests with the
24 commission pursuant to this act and shall file a copy of that
25 statement with the Board of Elections in the county in which
26 the candidate resides.

27 (2) Any candidate for local office shall file a
28 statement of financial interests with the commission pursuant
29 to this act and shall file a copy of that statement with the
30 governing authority of the political subdivision in which he

1 is a candidate.

2 (f)] All statements of financial interest filed pursuant to
3 the provisions of this act shall be made available for public
4 inspection and copying during regular office hours, and copying
5 facilities shall be made available at a charge not to exceed
6 actual cost.

7 Section 5. Statement of financial interests.

8 (a) The statement of financial interests filed pursuant to
9 this act shall be on a form prescribed by the commission. All
10 information requested on the statement shall be provided to the
11 best of the knowledge, information and belief of the person
12 required to file and shall be signed under [penalty of perjury
13 by the person required to file the statement] oath or equivalent
14 affirmation.

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

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

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

23 (3) Any direct or indirect interest in any real estate
24 which was sold or leased to the Commonwealth, any of its
25 agencies or political subdivisions; purchased or leased from
26 the Commonwealth, any of its agencies or political
27 subdivisions; or which was the subject of any condemnation
28 proceedings by the Commonwealth, any of its agencies or
29 political subdivisions.

30 (4) The name and address of each creditor to whom is

1 owed in excess of \$5,000 and the interest rate thereon.
2 However, loans or credit extended between members of the
3 immediate family and mortgages securing real property which
4 is the principal or secondary residence of the person filing
5 [or of his spouse] shall not be included.

6 (5) The name and address of any [person who is the]
7 direct or indirect source of income totalling in the
8 aggregate [\$500] \$1,000 or more. However, this provision
9 shall not be construed to require the divulgence of
10 confidential information protected by statute or existing
11 professional codes of ethics or common law privileges.

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

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

20 (6) The name and address of the source and the amount of
21 any gift or gifts valued in the aggregate at \$200 or more and
22 the circumstances of each gift. This paragraph shall not
23 apply to a gift or gifts received from a spouse, parent,
24 parent by marriage, sibling, child, grandchild, other family
25 member or friend when the circumstances make it clear that
26 the motivation for the action was a personal or family
27 relationship. However, for the purposes of this subsection,
28 the term "friend" shall not include a registered lobbyist or
29 an employee of a registered lobbyist. This paragraph shall
30 not be applied retroactively.

1 (7) (i) The name and address of the source and the
2 amount of any payment for or reimbursement of actual
3 expenses for transportation and lodging or hospitality
4 received in connection with public office or employment
5 where such actual expenses for transportation, lodging or
6 hospitality exceed \$200 in the course of a single
7 occurrence. This paragraph shall not apply to expenses
8 reimbursed by the governmental body with which the public
9 official or employee is associated, OR TO EXPENSES <—
10 REIMBURSED BY AN ORGANIZATION OR ASSOCIATION OF PUBLIC
11 OFFICIALS OR EMPLOYEES OF POLITICAL SUBDIVISIONS WHICH
12 THE PUBLIC OFFICIAL OR EMPLOYEE SERVES IN AN OFFICIAL
13 CAPACITY.

14 (ii) This paragraph shall not be applied
15 retroactively.

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

18 (9) Any financial interest in any legal entity engaged
19 in business for profit.

20 (10) The identity of any financial interest in a
21 business with which the reporting person is or has been
22 associated in the preceding calendar year which has been
23 transferred to a member of the reporting person's immediate
24 family.

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

29 Section 6. State Ethics Commission.

30 (a) There is established a State Ethics Commission composed

1 of seven members[,]. The President pro tempore of the Senate,
2 the Minority Leader of the Senate, the Speaker of the House, and
3 the Minority Leader of the House shall each appoint one member.
4 Three members shall be appointed by the Governor without
5 confirmation. No more than two of the members appointed by the
6 Governor shall be of the same political party. No appointee
7 shall have served as an officer in a political party for one
8 year prior to his appointment.

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

11 (1) the two members appointed by the President pro
12 tempore and Minority Leader of the Senate shall serve for
13 four years;

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

16 (3) of the three members appointed by the Governor two
17 shall serve for three years, and one shall serve for five
18 years].

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

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

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

24 (2) hold office in any political party or political
25 committee;

26 (3) actively participate in or contribute to any
27 political campaign;

28 (4) directly or indirectly attempt to influence any
29 decision by a governmental body, other than a court of law or
30 as a representative of the commission on a matter within the

jurisdiction of the commission; or

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

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

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

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

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

(i) The commission shall employ an executive director, a [general] chief counsel, and such other staff as are necessary to carry out its duties pursuant to this act. The executive director shall be responsible for the administrative operations

1 of the commission and shall perform such other duties as may be
2 delegated or assigned to him by the commission, except that the
3 commission shall not delegate the making of regulations to the
4 executive director. The [general] chief counsel shall be the
5 chief legal officer of the commission. The commission may obtain
6 the services of experts and consultants as necessary to carry
7 out its duties pursuant to this act. The State Treasurer and the
8 Attorney General shall make available to the commission such
9 personnel, facilities, and other assistance as the commission
10 may request.

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

12 In addition to other powers and duties prescribed by law, the
13 commission shall:

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

16 (2) Prescribe forms for statements and reports required
17 to be filed by this act and furnish such forms to persons
18 required to file such statements and reports.

19 (3) Prepare and publish guidelines setting forth
20 recommended uniform methods of accounting and reporting for
21 use by persons required to file statements and reports by
22 this act.

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

25 (5) Inspect statements of financial interests which have
26 been filed in order to ascertain whether any reporting person
27 has failed to file such a statement or has filed a deficient
28 statement. If, upon inspection, it is determined that a
29 reporting person has failed to file a statement of financial
30 interests or that any statement which has been filed fails to

1 conform with the requirements of section 5, then the
2 commission shall, in writing, notify the person. Such notice
3 shall state in detail the deficiency and the penalties for
4 failure to file or for filing a deficient statement of
5 financial interests.

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

12 [(6)] (7) Compile and maintain an index of all reports
13 and statements filed with the commission to facilitate public
14 access to such reports and statements and instruct other
15 State and local agencies which receive and file financial
16 interest statements in the maintenance of systems which
17 facilitate public access to such statements.

18 [(7)] (8) Prepare and publish annual summaries of
19 statements and reports filed with the commission.

20 [(8)] (9) Preserve statements and reports filed with the
21 commission for a period of five years from date of receipt
22 and advise other State and local agencies which receive and
23 store financial interests statements to preserve such
24 statements for a period of five years from date of receipt.

25 [(9) (i)] (10) Issue to any person, upon such person's
26 request, an opinion with respect to such person's duties
27 under this act. The commission shall, within 14 days, either
28 issue the opinion or advise the person who made the request
29 whether an opinion will be issued. No person who acts in good
30 faith on an opinion issued to him by the commission shall be

1 subject to criminal or civil penalties for so acting,
2 provided that the material facts are as stated in the opinion
3 request. The commission's opinions shall be public records
4 and may from time to time be published. The person requesting
5 the opinion may, however, require that the opinion shall
6 contain such deletions and changes as shall be necessary to
7 protect the identity of the persons involved.

8 [(ii)] (11) Provide written advice to any person or
9 the appointing authority or employer of said official, upon
10 their request with respect to such person's duties under this
11 act. Such advice shall be provided within 21 working days of
12 the request, provided that the time may be extended for good
13 cause. It shall be a complete defense in any enforcement
14 proceeding initiated by the commission, and evidence of good
15 faith conduct in any other civil or criminal proceeding, if
16 the requester, at least 21 working days prior to the alleged
17 violation, requested written advice from the commission in
18 good faith, disclosed truthfully all the material facts and
19 committed the acts complained of either in reliance on the
20 advice or because of the failure of the commission to provide
21 advice within 21 days of the request [of] or such later
22 extended time. The person requesting the advice may, however,
23 require that the advice shall contain such deletions and
24 changes as shall be necessary to protect the identity of the
25 persons involved.

26 [(iii)] (12) Initiate an inquiry, pursuant to
27 section 8(a), where [an opinion] a complaint has not been
28 [requested] filed but where there is a reasonable belief that
29 a conflict may exist. [Such inquiry shall be conducted in
30 privacy with full respect to the confidentiality of all the

1 parties involved in the alleged conflict. If the commission
2 finds that there is a conflict, the information shall be
3 provided for criminal proceedings unless the alleged offender
4 removes himself from the conflict with receiving financial
5 gain.

6 (iv) Issue advisory opinions to any present or
7 former State employee who contemplates terminating his
8 State employment and/or becoming employed by, contracting
9 with, assisting or acting in a representative capacity
10 for a business or corporation, upon such employee's
11 request. That opinion shall state whether, upon the facts
12 presented, such employment, contract, assistance or
13 representation would be in violation of section 3(g). If
14 the advisory opinion states that such employment,
15 contract, assistance or representation would not be in
16 violation of the provisions of section 3(g), the person
17 who requested the opinion may not be prosecuted or
18 penalized, either criminally or civilly, under the
19 provisions of this act provided that the actions under
20 question bear a substantial similarity to the facts
21 presented to the commission.]

22 (13) Issue findings reports and orders relating to
23 investigations initiated pursuant to section 8, which set
24 forth the alleged violation, findings of fact and conclusions
25 of law. An order may include recommendations to law
26 enforcement officials. Any order resulting from a finding
27 that a public official or public employee has obtained a
28 financial gain in violation of this act may require the
29 restitution plus interest of that gain to the appropriate
30 governmental body. The commission or the Office of Attorney

1 General shall have standing to apply to the Commonwealth
2 Court to seek enforcement of an order requiring such
3 restitution. This restitution requirement shall be in
4 addition to any other penalties provided for in this act.

5 [(10)] (14) Hold hearings, take testimony, issue
6 subpoenas and compel the attendance of witnesses.

7 [(11)] (15) Make recommendations to law enforcement
8 officials either for criminal prosecution or dismissal of
9 charges arising out of violations of this act.

10 [(12)] (16) Prepare and publish special reports,
11 educational materials, and technical studies to further the
12 purposes of this act.

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

16 (18) Transmit, free of charge, copies of each order,
17 advice and opinion which has become a matter of public record
18 to the Governor, each member of the General Assembly and at <—
19 least one public library in each county. QUARTERLY TO THE LAW <—
20 LIBRARY OF EACH COUNTY, ONE PUBLIC LIBRARY IN EACH COUNTY,
21 THE STATE LIBRARY, THE STATE SENATE LIBRARY, THE PENNSYLVANIA
22 ASSOCIATION OF COUNTY COMMISSIONERS, THE PENNSYLVANIA
23 ASSOCIATION OF BOROUGHES, THE PENNSYLVANIA STATE ASSOCIATION
24 OF TOWNSHIP SUPERVISORS, THE PENNSYLVANIA STATE ASSOCIATION
25 OF TOWNSHIP COMMISSIONERS, THE PENNSYLVANIA SCHOOL BOARDS
26 ASSOCIATION AND THE PENNSYLVANIA LEAGUE OF CITIES.

27 (19) Hold at least two public hearings each year, of
28 which at least one shall be held in Harrisburg and at least
29 one shall be held in a location other than Harrisburg, to
30 seek input from persons and organizations who represent any

1 individual subject to the provisions of this act and from
2 other interested parties.

3 Section 8. Investigations by the commission.

4 (a) Upon a complaint signed under penalty of perjury by any
5 person or upon its own motion, the commission [shall
6 investigate], through its executive director, shall conduct a
7 preliminary inquiry into any alleged violation of this act. [All
8 commission proceedings and records relating to an investigation
9 shall be confidential until a final determination is made by the
10 commission. The executive director shall notify any person under
11 investigation by the commission of the investigation and of the
12 nature of the alleged violation within five days of the
13 commencement of the investigation. Within 15 days of the filing
14 of a sworn complaint by a person alleging a violation, and every
15 30 days thereafter until the matter is terminated, the executive
16 director shall notify the complainant of the action taken to
17 date by the commission together with the reasons for such action
18 or nonaction.] The commission shall keep information, records
19 and proceedings relating to a preliminary inquiry confidential.
20 The commission shall, however, have the authority to refer the
21 case to law enforcement officials during a preliminary inquiry
22 or anytime thereafter without providing notice to the subject of
23 the inquiry. The commission shall complete its preliminary
24 inquiry within 60 days of its initiation.

25 (b) If a preliminary [investigation] inquiry fails to
26 [indicate probable cause for belief] establish reason to believe
27 that this act has been violated, the commission shall terminate
28 the [investigation] inquiry and so notify the complainant and
29 the person who had been [under investigation.] the subject of
30 the inquiry. If the commission determines that a complaint is

1 frivolous, it shall so state.

2 (c) If a preliminary inquiry establishes reason to believe
3 that this act has been violated, the commission may, through its
4 executive director, initiate an investigation to determine if
5 there has been a violation. The commission shall keep
6 information, records and proceedings relating to an
7 investigation confidential until a final determination is made,
8 except as otherwise provided in subsection (g). No investigation
9 may be commenced until the person who is the subject of the
10 investigation has been notified and provided a general statement
11 of the alleged violation or violations of the act and other
12 applicable statutes with respect to such investigation. Service
13 of notice is complete upon mailing which shall be by certified
14 or registered mail. The commission shall notify the complainant
15 within 72 hours of the commencement of an investigation and,
16 thereafter, the commission shall advise the complainant and the
17 person who is the subject of the investigation of the status of
18 the investigation at least every 90 days until the investigation
19 is terminated. The commission shall, within 180 days of the
20 initiation of an investigation, either terminate the
21 investigation pursuant to subsection (d) or issue a findings
22 report pursuant to subsection (e). Upon a showing by the
23 executive director of the need for extension of this period, the
24 commission may extend an investigation for up to two 90-day
25 periods, provided that each 90-day extension shall be approved
26 by a majority vote of members present. In no event shall a
27 findings report be issued later than 360 days after initiation
28 of an investigation.

29 (d) If an investigation conducted under this act indicates
30 that no violation has been committed, the commission shall

1 immediately terminate the investigation and send written notice
2 of such determination to the complainant and the person who was
3 the subject of the investigation.

4 (e) The commission, upon the completion of an investigation,
5 shall issue a findings report to the subject of the
6 investigation setting forth the pertinent findings of fact. The
7 subject shall have the right to respond to said findings and to
8 request an evidentiary hearing on said matter. The commission
9 shall grant any request for a hearing. Said hearing shall be
10 held in Harrisburg or, at the request of the subject, in either <—

11 ~~Philadelphia or Pittsburgh.~~ PHILADELPHIA, ERIE, SCRANTON OR <—

12 PITTSBURGH. THE COMMISSION MAY APPOINT MASTERS TO CONDUCT
13 HEARINGS AT THE REGIONAL HEARING SITES. THE HEARING SHALL BE
14 HELD AT THE REGIONAL HEARING SITE REQUESTED BY THE SUBJECT. IF
15 THE SUBJECT DOES NOT REQUEST A REGIONAL HEARING SITE, THE
16 COMMISSION SHALL DETERMINE WHERE THE HEARING SHALL BE HELD. THE
17 COMMISSION MAY DIRECT THAT A HEARING AT A REGIONAL SITE BE
18 CONDUCTED BY A MASTER. BEFORE COMMENCING THE HEARING, THE MASTER
19 SHALL INFORM THE SUBJECT THAT HE IS ENTITLED TO HAVE THE MATTER
20 HEARD BY THE COMMISSION. IF THE SUBJECT OBJECTS, THE HEARING
21 SHALL BE CONDUCTED BY THE COMMISSION. HOWEVER, IN SUCH A CASE,
22 THE COMMISSION MAY HOLD THE HEARING IN HARRISBURG. UPON
23 CONCLUSION OF A HEARING BEFORE A MASTER, THE MASTER SHALL
24 TRANSMIT WRITTEN FINDINGS AND RECOMMENDATIONS FOR DISPOSITION OF
25 THE CASE TO THE COMMISSION. Any response to the findings report
26 must either admit or deny by corresponding number and letter the
27 pertinent facts set forth. The subject of the investigation
28 shall have access to any evidence intended to be used by the
29 commission at the hearing and any exculpatory evidence developed
30 by the commission in the course of its investigation. Matters

1 not specifically denied in the response shall be deemed
2 admitted. The response must be filed within 30 days of the
3 issuance of the findings report unless the time period is
4 extended by the commission for good cause shown. Hearings
5 conducted upon request shall be instituted within 45 days after
6 the filing of the response.

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

14 (g) Hearings conducted pursuant to this section shall be
15 closed to the public unless the subject requests an open
16 hearing. Any person who appears before the commission shall have
17 all of the due process rights, privileges and responsibilities
18 of a party or witness appearing before an administrative agency
19 of this Commonwealth. All witnesses summoned for such hearings
20 shall receive reimbursement for reasonable expenses in
21 accordance with 42 Pa.C.S. § 5903 (relating to compensation and
22 expenses of witnesses). At the conclusion of a hearing
23 concerning an alleged violation and in a timely manner, the
24 commission shall deliberate on the evidence and determine, by
25 majority vote of the members present, whether there has been a
26 violation of this act. At least four members of the commission
27 present at a meeting must find a violation beyond a reasonable <—
28 doubt CLEAR AND CONVINCING PROOF. The names of the members <—
29 finding a violation and the names of those dissenting and
30 abstaining shall be listed in the order. The determination of

the commission, in the form of a final order and findings of fact, shall be a matter of public record.

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

(i) Any person aggrieved by an opinion or order which becomes final in accordance with the provisions of this act who has direct interest in such opinion or order shall have the right to appeal therefrom in accordance with law and general rules.

(j) No public official or public employee shall discharge any official or employee or change his official rank, grade or compensation, or deny him a promotion, or threaten to do so, for filing a complaint with or providing information to the commission or testifying in any commission proceeding. No member of the commission and no employee of the commission shall discharge any employee of the commission or change his official rank, grade or compensation, or threaten to do so, for providing any information about the internal operations of the commission, not required by law to be kept secret, to any legislator or legislative staff member, or testifying in any legislative proceeding.

(k) As a general rule, no person shall disclose or acknowledge, to any other person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the commissioner. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this subsection when the matters pertain to any of the following:

1 (1) final orders of the commission as provided in
2 section 8(h);
3 (2) hearings conducted in public pursuant to section
4 8(g);
5 (3) for the purpose of seeking advice of legal counsel;
6 (4) filing an appeal from a commission order;
7 (5) communicating with the commission or its staff, in
8 the course of a preliminary inquiry, investigation, hearing
9 or petition for reconsideration by the commission;
10 (6) consulting with a law enforcement official or agency
11 for the purpose of initiating, participating in or responding
12 to an investigation or prosecution by the law enforcement
13 official or agency;
14 (7) testifying under oath before a governmental body or
15 a similar body of the United States of America;
16 (8) any information, records or proceedings relating to
17 a complaint, preliminary inquiry, investigation, hearing or
18 petition for reconsideration which the person is the subject
19 of; or
20 (9) such other exceptions as the commission, by
21 regulation, may direct.

22 (L) IF A PUBLIC OFFICIAL OR PUBLIC EMPLOYEE HAS REASON TO <—
23 BELIEVE THE COMPLAINT IS FRIVOLOUS AS DEFINED BY THIS ACT, OR
24 WITHOUT PROBABLE CAUSE AND MADE PRIMARILY FOR A PURPOSE OTHER
25 THAN THAT OF REPORTING A VIOLATION OF THIS ACT, OR A PERSON
26 PUBLICLY DISCLOSED OR CAUSED TO BE DISCLOSED THAT A COMPLAINT
27 AGAINST THE PUBLIC OFFICIAL OR PUBLIC EMPLOYEE HAS BEEN FILED
28 WITH THE COMMISSION, THE PUBLIC OFFICIAL OR PUBLIC EMPLOYEE
29 SHALL NOTIFY THE COMMISSION AND THE COMMISSION, THROUGH ITS
30 EXECUTIVE DIRECTOR, SHALL CONDUCT AN INVESTIGATION.

1 ~~(1)~~ (M) The commission may conduct an investigation within
2 five years after the alleged occurrence of any violation of this
3 act.

4 Section 9. Penalties.

5 (a) Any person who violates the provisions of section 3(a)
6 [and (b)] , (b) and (c) is guilty of a felony and shall be fined
7 not more than \$10,000 or imprisoned for not more than five
8 years, or be both fined and imprisoned.

9 (b) Any person who violates the provisions of section [3(c)]
10 3(d) through [(h) or] (i), section 4 or section 5(a) is guilty
11 of a misdemeanor and shall be fined not more than \$1,000 or
12 imprisoned for not more than one year, or be both fined and
13 imprisoned.

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

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

26 (e) Any person who violates the confidentiality of a
27 commission proceeding pursuant to section 8, is guilty of a
28 misdemeanor and shall be fined not more than \$1,000 or
29 imprisoned for not more than one year, or be both fined and
30 imprisoned. Any person who engages in retaliatory activity

1 proscribed by section 8(j) is guilty of a misdemeanor and, in
2 addition to any other penalty provided by law, shall be fined
3 not more than \$1,000 or imprisoned for not more than one year,
4 or be both fined and imprisoned. Any person who willfully
5 affirms or swears falsely in regard to any material matter
6 before a commission proceeding pursuant to section 8 is guilty
7 of a felony and shall be fined not more than \$5,000 or
8 imprisoned for not more than five years, or be both fined and
9 imprisoned.

10 (f) In addition to any other civil remedy or criminal
11 penalty provided for in this act, the commission may, after
12 notice has been served in accordance with paragraph (5) of
13 section 7 and upon a majority vote of its members, levy a civil
14 penalty upon any person subject to this act who fails to file a
15 statement of financial interests in a timely manner or who files
16 a deficient statement of financial interests, at a rate of not
17 more than \$25 for each day such statement remains delinquent or
18 deficient. The maximum penalty payable under this paragraph is
19 \$250.

20 (g) A public official of a political subdivision who acts in
21 good faith reliance on a written, nonconfidential opinion of the
22 solicitor of the political subdivision or upon an opinion of the
23 solicitor of the political subdivision, publicly stated at an
24 open meeting of the political subdivision and recorded in the
25 official minutes of the meeting shall not be subject to the
26 penalties provided for in subsections (a) and (b), nor for the
27 treble damages provided for in subsection (c).

28 Section 10. [Court employees.] Constables.

29 Nothing in this act, or in any other law or court rule shall
30 be construed to prohibit any constable [or any employee of a

1 court of common pleas, the Municipal Court of Philadelphia, the
2 Traffic Court of Philadelphia, or any employee of a district
3 justice] from also being an officer of a political body or
4 political party as such terms are defined in the act of June 3,
5 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
6 Code," and the same may hold the office of a county, State or
7 national committee of any political party, and may run for and
8 hold any elective office, and may participate in any election
9 day activities.

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

11 Section 10.1. Wrongful use of act.

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

15 ~~(1) (i) he acted in a grossly negligent manner or~~ <—
16 ~~without probable cause and primarily for a purpose other than~~
17 ~~that of reporting a violation of this act; or~~

18 ~~(ii) he publicly disclosed or caused to be disclosed~~
19 ~~that a complaint against a person had been filed with the~~
20 ~~commission; and~~

21 ~~(2) the complaint was frivolous as defined by this act~~
22 ~~or there was a lack of probable cause for belief that this~~
23 ~~act had been violated by the person.~~

24 (1) THE COMPLAINT WAS FRIVOLOUS, AS DEFINED BY THIS ACT, <—
25 OR WITHOUT PROBABLE CAUSE AND MADE PRIMARILY FOR A PURPOSE
26 OTHER THAN THAT OF REPORTING A VIOLATION OF THIS ACT; OR

27 (2) HE PUBLICLY DISCLOSED OR CAUSED TO BE DISCLOSED THAT
28 A COMPLAINT AGAINST A PERSON HAD BEEN FILED WITH THE
29 COMMISSION.

30 (b) A person who signs a complaint alleging a violation of

this act has probable cause for doing so if he reasonably believes in the existence of the facts upon which the claim is based and either:

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

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

(c) When the commission determines that a complainant has violated the provisions set forth in section 10.1(a) the commission upon receiving a written request from the subject of the complaint shall provide the name and address of the complainant to said subject. If the commission determines that a complainant has not violated the provisions of subsection (a), the commission shall notify the subject accordingly. The subject shall have the right to appeal the commission's determination and the commission shall schedule an appeal hearing. The subject shall show cause why the complainant violated the provisions of this section. If the commission grants the appeal, the commission shall immediately release the complainant's name and address to the subject. If the commission denies the appeal, it shall present evidence why the complainant's name and address shall not be released.

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

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

(2) The expenses, including any reasonable attorney

1 fees, that he has reasonably incurred in proceedings before
2 the commission.

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

5 (4) Any emotional distress that has been caused by the
6 proceedings.

7 (5) Any punitive damages according to law in appropriate
8 cases.

9 Section 3. Section 11 of the act is reenacted and amended to
10 read:

11 Section 11. Supplemental provisions.

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

15 Section 4. Sections 12 and 13 of the act are reenacted to
16 read:

17 Section 12. Conflict of law.

18 If the provisions of this act conflict with any other
19 statute, ordinance, regulation or rule, the provisions of this
20 act shall control.

21 Section 13. Severability.

22 If any provision of this act, or the application thereof to
23 any person or circumstance, is held invalid, the validity of the
24 remainder of this act and the application of such provisions to
25 other persons and circumstances shall not be affected thereby.

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

28 Section 14. Effective date.

29 This act shall take effect January 1, 1979 except that
30 subsections (b) and (e) of section 4 shall take effect August 1,

1 1979 and subsections (a) and (d) of section 4 shall take effect
2 January 1, 1980: Provided, however, That the Ethics Commission
3 shall have the power and duty to require the filing of the
4 financial disclosure statements of candidates for elective
5 office between August 1, 1979 and January 1, 1980 at least 60
6 days prior to such election, or in the case of a special
7 election at least 15 days prior to such election.

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

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

25 Section 8. This act, with respect to the State Ethics
26 Commission, constitutes the legislation required to reestablish
27 an agency pursuant to the act of December 22, 1981 (P.L.508,
28 No.142), known as the Sunset Act. The State Ethics Commission
29 shall continue, together with its statutory functions and
30 duties, until December 31, 1994, when it shall terminate and go

1 out of existence unless reestablished or continued by the
2 General Assembly for an additional ten years. Evaluation,
3 review, termination, reestablishment and continuation of the
4 agency beyond December 31, 1994, and every tenth year
5 thereafter, shall be conducted pursuant to the Sunset Act.

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

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

17 Section 11. This act shall apply as follows:

18 (1) Section 1 (the definitions in section 2 of the act
19 that are used in sections 4 and 5 of the act, insofar as the
20 definitions relate to sections 4 and 5) shall apply to
21 occurrences which take place after the effective date of this
22 act.

23 (2) Section 1 (sections 4 and 5 of the act) shall apply
24 to occurrences which take place after the effective date of
25 this act.

26 Section 12. This act shall take effect immediately.