

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 35

Session of
1997

INTRODUCED BY VITALI, KREBS, COY, CAWLEY, GORDNER, CAPPABIANCA,
TIGUE, MANDERINO, MICHLOVIC AND JOSEPHS, JANUARY 27, 1997

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 27, 1997

AN ACT

1 Amending the act of October 4, 1978 (P.L.883, No.170), entitled,
2 as reenacted, "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," providing for regulation of
8 campaign finances and lobbying expenses and for public access
9 to reports.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The title of the act of October 4, 1978 (P.L.883,
13 No.170), referred to as the Public Official and Employee Ethics
14 Law, reenacted and amended June 26, 1989 (P.L.26, No.9), is
15 amended to read:

AN ACT

17 Relating to conflicts of interest involving certain public
18 officials serving in State offices or State agencies and
19 local political subdivision positions [and]; prohibiting
20 certain public employees from engaging in certain conflict of
21 interest activities; requiring certain disclosures;

1 authorizing regulation of campaign finances and lobbying
2 expenses; and providing penalties.

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

4 Section 1.1. Short title.

5 This act shall be known and may be cited as the "Public
6 Disclosure and Ethics Act."

7 Section 3. The definition of "commission" in section 2 of
8 the act is amended to read:

9 Section 2. Definitions.

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

13 * * *

14 "Commission." The [State] Public Disclosure and Ethics
15 Commission.

16 * * *

17 Section 4. Section 6(a) of the act is amended to read:

18 Section 6. [State] Public Disclosure and Ethics Commission.

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

28 * * *

29 Section 5. Section 7 of the act is amended by adding
30 paragraphs to read:

1 Section 7. Powers and duties of the commission.

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

4 * * *

5 (20) Administer the provisions of Article XVI of the act
6 of June 3, 1937 (P.L.1333, No.320), known as the
7 "Pennsylvania Election Code," relating to campaign finances
8 for State Senators, State Representatives and elective State
9 officers, issue opinions and advice, initiate inquiries,
10 receive complaints, make investigations, hold hearings and
11 make reports related to violations thereof.

12 (21) Administer the provisions of the act of September
13 30, 1961 (P.L.1778, No.712), known as the "Lobbying
14 Registration and Regulation Act," and any other act of the
15 Commonwealth regulating lobbying, issue opinions and advice,
16 initiate inquiries, receive complaints, make investigations,
17 hold hearings and make findings relating to violations
18 thereof.

19 Section 6. Section 8(a), (b) and (c) of the act are amended
20 to read:

21 Section 8. Investigations by the commission.

22 (a) Upon a complaint signed under penalty of perjury by any
23 person or upon its own motion, the commission, through its
24 executive director, shall conduct a preliminary inquiry into any
25 alleged violation of this act[.], of the provisions of Article
26 XVI of the act of June 3, 1937 (P.L.1333, No.320), known as the
27 "Pennsylvania Election Code," and the provisions of the act of
28 September 30, 1961 (P.L.1778, No.712), known as the "Lobbying
29 Registration and Regulation Act." The commission shall keep
30 information, records and proceedings relating to a preliminary

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

7 (b) If a preliminary inquiry fails to establish reason to
8 believe that this act [has] or the provisions of Article XVI of
9 the "Pennsylvania Election Code" or of the "Lobbying
10 Registration and Regulation Act" have been violated, the
11 commission shall terminate the inquiry and so notify the
12 complainant and the person who had been the subject of the
13 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] or the provisions of Article XVI of the
17 "Pennsylvania Election Code" or of the "Lobbying Registration
18 and Regulation Act" have been violated, the commission may,
19 through its executive director, initiate an investigation to
20 determine if there has been a violation. The commission shall
21 keep information, records and proceedings relating to an
22 investigation confidential until a final determination is made,
23 except as otherwise provided in subsection (g). No investigation
24 may be commenced until the person who is the subject of the
25 investigation has been notified and provided a general statement
26 of the alleged violation or violations of the act and other
27 applicable statutes with respect to such investigation. Service
28 of notice is complete upon mailing which shall be by certified
29 or registered mail. The commission shall notify the complainant
30 within 72 hours of the commencement of an investigation and,

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

14 * * *

15 Section 7. The provisions of this act regulating the
16 administration of Article XVI of the act of June 3, 1937
17 (P.L.1333, No.320), known as the Pennsylvania Election Code, and
18 the provisions of the act of September 30, 1961 (P.L.1778,
19 No.712), known as the Lobbying Registration and Regulation Act,
20 shall be implemented by the Public Disclosure and Ethics
21 Commission no later than 180 days from the effective date of
22 this act.

23 Section 8. This act shall take effect immediately.