

STATE ADVERSE INTEREST ACT

Act of Jul. 19, 1957, P.L. 1017, No. 451

Cl. 71

AN ACT

Prohibiting advisors, consultants, officers and employes of the Commonwealth, the Pennsylvania Turnpike Commission and State authorities, from having adverse interests in certain contracts; prohibiting employes thereof from representing other persons in certain circumstances; and prescribing penalties.

**Compiler's Note:** Section 8(2) of Act 132 of 2012 provided that Act 451 is repealed insofar as it is inconsistent with Act 132.

**Compiler's Note:** Section 6(d) of Act 57 of 1998 provided that nothing in Act 57 shall repeal, modify or supplant Act 451.

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

Section 1. This act shall be known and may be cited as the "State Adverse Interest Act."

Section 2. The following terms shall have the following meanings, when used in this act:

(1) "Abstain." To recuse from influencing, attempting to influence, voting in, supervising or, in any manner, dealing with a contract in which there is an adverse interest.

(2) "Contract." A contract or arrangement for the acquisition, use or disposal by a State agency of services or of supplies, materials, equipment, land or other personal or real property. The term "contract" shall not mean an agreement between the Commonwealth or a State agency as one party and a State advisor, consultant or employe as the other party, concerning his expense, reimbursement, fee, salary, wage, retirement benefit, tenure or other matters touching his personal service to the Commonwealth or State agency.

(3) "Disclosure." To submit the material facts of an adverse interest in a contract to the State agency by which he is employed and to the party or agency which has a contract with the State agency by which he is employed.

(4) "Have an Adverse Interest." Be the party to a contract, as herein defined, other than the Commonwealth or a State agency or be a stockholder, partner, member, agent, representative or employe of such party.

(5) "Municipal Body." A locally elected or appointed governmental body, including but not limited to political subdivisions and authorities.

(6) "Municipal Officer." Persons who serve the public domain as an elected or appointed member of a municipal body.

(7) "State Advisor." A person who performs professional, scientific, technical or advisory service for a State agency or serves as a member of an advisory board, professional licensing board or similar part of a State agency and who receives no compensation for his service other than reimbursement for expenses incurred by him in furnishing such service.

(8) "State Agency." A department, board, commission or other part of the executive branch of the government of the Commonwealth or the Pennsylvania Turnpike Commission, the General State Authority or other State authority, created by a statute which declares in substance that such authority performs or has for its purpose the performance of an essential

governmental function and that its bonds shall not pledge the faith or credit or be obligations of the Commonwealth.

(9) "State Consultant." A person who, as an independent contractor, performs professional, scientific, technical or advisory service for a State agency and who receives a fee, honorarium or similar compensation for such service.

(10) "State Employee." An appointed officer or employe in the service of a State agency and who receives a salary or wage for such service.

(2 amended Dec. 9, 1982, P.L.1044, No.245)

Section 3. No State advisor or State consultant having recommended to the State agency which he serves, either the making of a contract or a course of action of which the making of a contract is an express or implied part, shall, at any time thereafter, have an adverse interest in such contract.

Section 4. No State employe shall influence, or attempt to influence, the making of or supervise or in any manner deal with any contract in which he has an adverse interest.

Section 5. No State employe shall have an adverse interest in any contract with the State agency by which he is employed.

Section 6. No person having an adverse interest in a contract with a State agency, shall become an employe of such agency until such adverse interest shall have been wholly divested.

Section 7. No State employe, except in the performance of his duties as such employe, shall, for remuneration, directly or indirectly, represent any other person upon any matter pending before or involving any State agency.

Section 7.1. (a) Notwithstanding any other provisions of this act, a State employe who serves in an elected or appointed capacity as a municipal officer shall not be deemed to have an adverse interest by virtue of any action taken by the municipal body of which he is a member if he properly abstains and submits a disclosure.

(b) Whenever a municipal body would be unable to take any action on a matter before the municipal body because a majority of the members of the municipal body are required to abstain under the provisions of subsection (a), then such municipal officers shall be permitted to participate in the action and may vote on, supervise or otherwise deal with a contract if such municipal officers submit a disclosure to the municipal bodies and as otherwise provided herein.

(7.1 added Dec. 9, 1982, P.L.1044, No.245)

Section 8. Any person who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000) or to be imprisoned for a term not exceeding one year, or both, and in addition, shall automatically forfeit any office or employment under a State agency which he may then hold.

Section 9. This act shall take effect in ninety days.