

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 541

Session of

INTRODUCED BY YOHN, SPENCER, POLITE, BUTERA, PITTS, PANCOAST,
ZEARFOSS, FISHER, D. S. HAYES, CESSAR, McCLATCHY, SCIRICA,
M. E. MILLER JR., PYLES, KLINGAMAN, MOEHLMANN, HOPKINS,
SIRIANNI, WILSON, FAWCETT, WEIDNER, CRAWFORD, VROON,
E. H. SMITH AND MEBUS, FEBRUARY 24, 1975

REFERRED TO COMMITTEE ON ETHICS, FEBRUARY 24, 1975

AN ACT

1 Amending the act of July 10, 1968 (P.L.316, No.154), entitled
2 "An act establishing a code of ethics for the General
3 Assembly, its officers and employes, and providing remedies
4 for its enforcement and penalties," further defining gift and
5 member and adding definitions; further providing for
6 standards of conduct and prohibitions; providing for economic
7 interest statements; and further providing for penalties.

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

10 Section 1. Clauses (5) and (6) of section 3, act of July 10,
11 1968 (P.L.316, No.154), known as the "Legislative Code of
12 Ethics," are amended and the section is also amended by adding
13 definitions to read:

14 Section 3. Definitions.--Unless the context clearly
15 indicates otherwise, the following words and terms when used
16 herein shall have the respective meanings defined as follows:

17 * * *

18 (5) "Gift," as used in [section 5,] this act, includes any
19 thing of economic value with the exception of public awards,

1 insignificant nonpecuniary gifts, political contributions for
2 which an accounting is required by and is made pursuant to the
3 election laws, or compensation or gifts not connected with or
4 related to either the legislative processes or the donee's
5 services as a member.

6 (6) "Member" shall include a Senator, Representative,
7 officer or employe of the General Assembly or any committee
8 thereof. [but not a person employed on a contractual basis or
9 without compensation for a particular project.] For the purposes
10 of section 5.1, said term shall not include an employe whose
11 salary, received from the General Assembly or any committee
12 thereof, is less than twelve thousand dollars (\$12,000) a year
13 and said term shall include persons employed on a contractual
14 basis for a particular project as an economic interest statement
15 relates to the general subject matter of the particular project
16 but shall not be deemed to require a complete economic interest
17 statement of such persons.

18 * * *

19 (13) "Significant portion of the total business of such
20 entity" means gross receipts of such entity in excess of five
21 thousand dollars (\$5,000) or five percent (5%) of the total
22 gross receipts of such entity, whichever is greater.

23 (14) "Indirect interest in real estate" means an ownership
24 interest in a person whose assets consist of eighty percent
25 (80%) real estate, or more.

26 (15) "Substantial personal economic interest" means a direct
27 or indirect financial interest exceeding five thousand dollars
28 (\$5,000) or five percent (5%) of the equity at fair market value
29 in any legal entity engaged in business for profit or exceeding
30 five thousand dollars (\$5,000) or five percent (5%) of the total

1 gross receipts of any legal entity engaged in business for
2 profit.

3 Section 2. Sections 4 and 5 of the act are repealed.

4 Section 3. The act is amended by adding sections to read:

5 Section 4.1. Standards of Conduct.--(a) No member shall
6 accept employment or engage in any business or professional
7 activity which will require him to disclose confidential
8 information which he has gained by reason of his official
9 position or authority.

10 (b) No member shall improperly disclose confidential
11 information acquired by him in the course of his official duties
12 nor use such information to further his personal interests.

13 (c) No member shall use or attempt to use his official
14 position to secure unwarranted privileges or exemptions for
15 himself or others but this subsection shall not be deemed to
16 prohibit the making of an inquiry of a Commonwealth agency for
17 information on behalf of a person.

18 (d) No member shall knowingly solicit, accept, or receive
19 any gift or compensation, other than that provided by law, which
20 is intended to influence the performance of his official duties
21 or which would influence the performance of his official duties
22 nor shall any member solicit, accept, or receive any such gift
23 or compensation for advocating the passage or defeat of any
24 legislation or for doing any act intended to influence the
25 passage or defeat of legislation including, in the case of a
26 Senator or Representative, his vote thereon.

27 (e) No member shall receive compensation or anything of
28 economic value for any consultation, the subject matter of which
29 is devoted substantially to the responsibilities, programs, or
30 operation of the General Assembly, or draws substantially upon

official data or ideas which have not become part of the body of public information.

(f) No member shall participate as a principal in any transaction involving the Commonwealth or any Commonwealth agency in which he, his spouse or child, or any person of which he is an officer, director, trustee, partner or employe has a substantial personal economic interest as distinguished from that of a general class or general group of persons of which he may be a member.

(g) No member, nor any business entity with which such member has an ownership interest in excess of five percent (5%) or of which the member is an officer, director or partner, shall enter into any contract with an agency of the Commonwealth which contract is to be paid in whole or in part out of State funds unless the contract has been awarded through a process of public notice and competitive bidding.

(h) No member nor any firm, partnership or association of which a member is a partner, associate or employe, shall receive any compensation or enter into any agreement with any person for compensation for services rendered or to be rendered, for representing, appearing for, or interceding in behalf of such person in any transaction involving the Commonwealth or any of its agencies or the Governor, Lieutenant Governor, Auditor General or Treasurer except as follows:

(1) The proceeding is before any court.

(2) The proceeding involves only the uncontested and routine action of administrative officers or employes of the Commonwealth in issuing or renewing a license, charter certificate or similar document.

(3) The proceeding involves only the preparation, filing and

routine review of tax returns and supporting documents required by law.

(4) The proceeding involves only the preparation, filing and routine review of engineering and architectural plans, drawings, specifications and reports.

(i) No member shall use for private gain any information not available to the public at large and acquired by him solely by virtue of his position.

(j) No information described in subsection (i) of this section shall be disclosed by a member to others for purposes of their use for private gain, in circumstances where the use of such information by the member would violate subsection (i) of this section.

(k) Subsections (d), (e) and (f) of this section shall not apply to:

(1) Receipt of bona fide reimbursement, to the extent permitted by law, for actual expenses for travel and such other necessary subsistence as is compatible with this act for which no Commonwealth payment or reimbursement is made.

(2) Participation in the affairs of charitable, religious, nonprofit educational, public service or civic organizations, or the activities of national or State political parties not proscribed by law.

(3) Awards for meritorious public contribution given by public service or civic organizations.

(4) Sharing in any compensation received from the Commonwealth or from any political subdivision of the Commonwealth by a person of which such member owns or controls any portion thereof, provided such compensation was received by such person as a result of having made the lowest competitive

bid on a Commonwealth contract or subcontract on which more than two bids were submitted and having had such bid accepted by the Commonwealth or the general contractor, or by reason of an engagement by the Commonwealth in emergency circumstances where dispensation with bidding is permitted by law, and provided such member did not assist in the procurement of the Commonwealth's or the subdivision's or the general contractor's acceptance of such low bid or engagement without bidding.

(5) Campaign contributions for use in meeting campaign expenses by any official who is or becomes a candidate for election to the same or another public office.

(6) Receipt of compensation from the Commonwealth directly or indirectly where (i) the total interest of the member, his or her spouse or children under eighteen years of age of the person receiving said compensation is less than ten percent (10%), or (ii) the member or the person in which he has an interest is the exclusive supplier of the real or personal property or type of service purchased by the Commonwealth.

(7) Nothing contained in subsection (h) shall affect a transaction involving the Commonwealth commencing prior to the effective date of this amendatory act.

(1) No member shall receive any compensation or gifts for obtaining publications, documents, certificates, or licenses for others, except that members may be reimbursed for the actual cost of such publications, documents, certificates or licenses.

Section 5.1. Economic Interest Statement.--(a) Each member, on or before the fifteenth day of March of each year, shall file an economic interest statement with the Secretary of the Senate or the Chief Clerk of the House of Representatives, as appropriate. The economic interest statement shall contain the

following information for the preceding calendar year concerning the member, his or her spouse and children under eighteen years of age, unless otherwise noted, but no dollar amount or value need be attributed thereto:

(1) Name, district and title of the member.

(2) Occupations or professions of the member, spouse or children.

(3) Direct or indirect sources, by name, of any income in excess of five hundred dollars (\$500), including capital gains, whether or not taxable, received during the preceding year.

(4) Direct or indirect interests in real estate situate in the Commonwealth by location; provided a member's primary residence shall not be included.

(5) The name of each creditor to whom is owed in excess of five thousand dollars (\$5,000) and the interest rate thereon: Provided, That loans or credit extended between members of the immediate family and mortgages of public record shall not be included: And provided, further, That any loan or extension of credit regardless of the amount thereof used for the purpose of conducting a political campaign, including the last campaign for the General Assembly of the Commonwealth of Pennsylvania, shall be set forth along with the name of the creditor, the interest rate thereon, the method of repayment and the source of the funds used for such repayment.

(6) Direct or indirect financial interests exceeding five per cent of the equity or five thousand dollars (\$5,000) at fair market value in any legal entity engaged in business for profit for which doing business with the Commonwealth represents a significant portion of the total business of such entity; or which is regulated by the Commonwealth or its agencies; or which

1 is subject to the rate making or other similar nonministerial
2 process of the Commonwealth or its agencies; except, however,
3 that this clause shall not apply to proceedings set forth in
4 section 4.1(h)(2), (3) and (4) of this act.

5 (7) Any office, directorship or employment of any nature
6 whatsoever in any legal entity engaged in business for profit
7 doing business with the Commonwealth; or which is regulated by
8 the Commonwealth or its agencies; or which is subject to the
9 rate making or other similar nonministerial process of the
10 Commonwealth or its agencies; except, however, that this clause
11 shall not apply to proceedings set forth in section 4.1(h)(2),
12 (3), and (4) of this act.

13 (8) Clients or customers of a member engaged in a profession
14 or business, including but not limited to the professions or
15 businesses of insurance agent or broker, sales representative,
16 engineer, real estate agent or broker, security broker,
17 architect, attorney or accountant from whom is received payment
18 in excess of five hundred dollars (\$500), (i) which he actually
19 represented, appeared for or interceded in behalf of for
20 compensation in a transaction involving the Commonwealth or its
21 agencies; or (ii) for which doing business with the Commonwealth
22 represents a significant portion of the total business of the
23 client or customer where the service performed for the client or
24 customer bears a reasonable relationship to the business being
25 done with the Commonwealth; or (iii) which are regulated by the
26 Commonwealth or its agencies where the service performed for the
27 client or customer bears a reasonable relationship to the
28 purpose for which the client or customer is regulated; or (iv)
29 which are subject to rate making or other similar nonministerial
30 process where the service performed for the client or customer

bears a reasonable relationship to the purpose for which the client or customer is subject to such rate making or other similar nonministerial process; except, however, that this clause shall not apply to proceedings set forth in section 4.1(h)(2), (3) and (4) of this act.

(9) Names, addresses and titles of a spouse, parent or grandparent, brothers or sisters of such spouse, parent or grandparent, or children, grandchildren, brothers, sisters and the spouses of such children, grandchildren, brothers and sisters of a member employed by the Commonwealth or its agencies.

(b) Candidates for Senator or Representative of the General Assembly of the Commonwealth of Pennsylvania shall file an economic interest statement on or before the fifteenth day of March in the year in which they are a candidate. In the event there is a special election, such statement shall be filed by such candidate within ten days after nomination as a candidate. Such statement shall be filed with the Secretary of the Senate or Chief Clerk of the House of Representatives, as appropriate.

(c) Once an economic interest statement has been filed under this act, such statement may be updated annually by filing a supplemental statement thereto.

(d) Economic interest statements shall be available for public inspection.

Section 4. Section 6 of the act is amended to read:

Section 6. Penalties.--(a) Any person violating section [5] 4.1 or section 5.1 of this act shall be guilty of a misdemeanor, and upon conviction thereof be sentenced to pay a fine of not more than one thousand dollars (\$1000) and costs and, in default of the payment of such fine and costs, shall undergo

1 imprisonment for not more than two years.

2 (b) All fines and penalties imposed under the provisions of
3 this section shall be paid into the General Fund of the
4 Commonwealth.

5 Section 7. Effective Date.--This act shall take effect in 60
6 days.