

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1733

Session of  
1987

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INTRODUCED BY DeWEESE, MOEHLMANN, BORTNER, HECKLER, BLAUM,  
KOSINSKI, HAGARTY, McHALE, CALTAGIRONE, MAIALE, KUKOVICH,  
BALDWIN AND JOSEPHS, SEPTEMBER 28, 1987

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 28, 1987

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## 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; and reestablishing the State Ethics  
11 Commission.

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 ~~10, 11, 12 and 13~~ 9 AND 10 of the act of October 4, 1978 <—  
16 (P.L.883, No.170), referred to as the Public Official and  
17 Employee Ethics Law, are reenacted and amended to read:

## AN ACT

19 Relating to conflicts of interest involving certain public  
20 officials serving in State or State agencies and local  
21 political subdivision positions and prohibiting certain

public employees from engaging in certain conflict of interest activities requiring certain disclosures and providing penalties.

#### Section 1. Purpose.

(a) The Legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In order to strengthen the faith and confidence of the people of the State in their government, the Legislature further declares that the people have a right to be assured that the financial interests of holders of or nominees or candidates for public office do not [present neither a conflict nor the appearance of a] conflict with the public trust. Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this act shall be liberally construed to promote complete disclosure.

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

#### Section 2. Definitions.

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

"Advice." Any ~~advice~~ DIRECTIVE of the general counsel of the commission issued under paragraph (11) of section 7 and based exclusively on prior commission opinions, this act, regulations promulgated pursuant to this act, and court opinions which

<—

1 interpret this act.

2 ~~"Anything of value." Any money, service, political~~ <—  
3 ~~contribution, loan or promise of future or continued employment.~~  
4 ~~"Anything of value" does not include honoraria and expenses~~  
5 ~~reportable under paragraph (7) of section 5, a gift reportable~~  
6 ~~under paragraph (6) of section 5, or income and expenses paid by~~  
7 ~~an employing governmental body.~~

8 "AUTHORITY OF OFFICE OR EMPLOYMENT." THE ACTUAL POWER <—  
9 PROVIDED BY LAW, THE EXERCISE OF WHICH IS NECESSARY TO THE  
10 PERFORMANCE OF DUTIES AND RESPONSIBILITIES UNIQUE TO A  
11 PARTICULAR PUBLIC OFFICE OR POSITION OF PUBLIC EMPLOYMENT.

12 "Business." Any corporation, partnership, sole  
13 proprietorship, firm, enterprise, franchise, association,  
14 organization, self-employed individual, holding company, joint  
15 stock company, receivership, trust or any legal entity organized  
16 for profit.

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

21 "Candidate." Any individual who seeks nomination or election  
22 to public office by vote of the electorate, other than a judge  
23 or inspector of elections, whether or not such individual is  
24 nominated or elected. An individual shall be deemed to be  
25 seeking nomination or election to such office if he has:

26 (1) received a contribution or made an expenditure or  
27 given his consent for any other person or committee to  
28 receive a contribution or make an expenditure for the purpose  
29 of influencing his nomination or election to such office,  
30 whether or not the individual has announced the specific

office for which he will seek nomination or election at the  
time the contribution is received or the expenditure is made;  
or

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

~~"Candidate" includes announced write in candidates, whether or~~  
~~not they are elected to or nominated for an office, and~~  
~~unannounced write in candidates who are elected to or nominated~~  
~~for an office. SUCH OFFICE.~~

THE TERM SHALL INCLUDE INDIVIDUALS NOMINATED OR ELECTED AS  
WRITE-IN CANDIDATES.

"Commission." The State Ethics Commission.

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

"Conflict" or "conflict of interest." A transaction where a  
~~public official or public employee uses the authority of his~~  
~~office or employment for the private pecuniary benefit or~~  
~~detriment of himself, a member of his immediate family, or a USE~~  
BY A PUBLIC OFFICIAL OR PUBLIC EMPLOYEE OF THE AUTHORITY OF HIS  
OFFICE OR ANY CONFIDENTIAL INFORMATION RECEIVED THROUGH HIS  
HOLDING PUBLIC OFFICE OR EMPLOYMENT FOR THE PRIVATE PECUNIARY  
BENEFIT OR DETRIMENT OF HIMSELF, A MEMBER OF HIS IMMEDIATE  
FAMILY OR A business with which he or a member of his immediate  
family is associated. "Conflict" or "conflict of interest" does  
not include an action having a de minimis economic impact or  
which affects to the same degree a class consisting of the

general public or a subclass consisting of an industry,  
occupation or other group which includes the public official or  
public employee, a member of his immediate family or a business  
with which he or a member of his immediate family is associated.

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

<—

"De minimis economic impact." An economic consequence which  
has an insignificant effect upon the public interest.

"Executive-level State employee." The Governor, Lieutenant  
Governor, cabinet members, deputy secretaries, the Governor's  
office staff, any State employee with discretionary powers which  
may affect the outcome of a State agency's decision in relation  
to a private corporation or business or any employee who by  
virtue of his job function could influence the outcome of such a  
decision.

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

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

"Gift." [A payment, subscription, advance, forbearance,

1 rendering or deposit of money, services or anything of value,  
2 unless consideration of equal or greater value is received]  
3 Anything which is received without consideration. "Gift" shall  
4 not include a political contribution otherwise reported as  
5 required by law[, ] OR a commercially reasonable loan made in the <—  
6 ordinary course of business, ~~[or] honoraria or expenses~~ <—  
7 ~~reportable under paragraph (7) of section 5, [~~ OR a gift <—  
8 received from a member of the person's immediate family or from  
9 a relative within the third degree of consanguinity of the  
10 person or of the person's spouse or from the spouse of any such  
11 relative, ~~or a gift received from a person having no direct~~ <—  
12 ~~interest in a matter before the governmental body with which the~~  
13 ~~public official or public employee is associated.~~ RELATIVE]. <—  
14 "Governmental body." Any department, authority, commission,  
15 committee, council, board, bureau, division, service, office,  
16 officer, administration, legislative body, or other  
17 establishment in the Executive, Legislative or Judicial Branch  
18 of the State or a political subdivision thereof.  
19 "Governmental body with which a public official or public  
20 employee is or has been associated." The entity within State  
21 government or a political subdivision by which the public  
22 official or employee is or has been employed or to which the  
23 public official or employee is or has been appointed or elected,  
24 and not only the particular subdivision or office within that  
25 entity to which the official or employee is or ~~was~~ HAS BEEN <—  
26 assigned.  
27 "Honorarium." Payment made in recognition of published  
28 works, appearances, speeches, AND presentations and the like <—  
29 which is not intended as remuneration CONSIDERATION for the <—  
30 value of such services.

1 "Immediate family." [A spouse residing in the person's  
2 household and minor dependent children] A parent, spouse, child,  
3 brother, sister or like relative-in-law.

4 "Income." Any money or ~~thing of value~~ ~~property~~ received, <—  
5 or to be received as a claim on future services OR IN <—  
6 RECOGNITION OF SERVICES RENDERED IN THE PAST, whether in the  
7 form of a payment, fee, salary, expense, allowance, forbearance,  
8 forgiveness, interest, dividend, royalty, rent, capital gain,  
9 reward, SEVERANCE PAYMENT, PROCEEDS FROM THE SALE OF A FINANCIAL <—  
10 INTEREST IN A CORPORATION, PROFESSIONAL CORPORATION, PARTNERSHIP  
11 OR OTHER ENTITY RESULTING FROM TERMINATION OR WITHDRAWAL  
12 THEREFROM UPON ASSUMPTION OF PUBLIC OFFICE OR EMPLOYMENT or any  
13 other form of recompense or any combination thereof. "Income"  
14 refers to gross income and includes prize winnings and tax-  
15 exempt income. The term does not include honoraria or expenses <—  
16 reportable under paragraph (7) of section 5, gifts, social  
17 security, welfare, general assistance, domiciliary care  
18 programs, retirement, pension and annuity payments funded  
19 totally by contributions of the public official or employee,  
20 unemployment compensation, including employer and union-funded  
21 programs, worker's compensation, or miscellaneous, incidental  
22 income of minor dependent children.

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

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

29 "Nominee." Any person whose name has been formally <—  
30 submitted, in writing, to a public official or governing <—

1 GOVERNMENTAL body vested with the power to finally confirm or <—  
2 reject proposed appointments to public office OR EMPLOYMENT. <—

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

6 "Opinion." ~~An opinion~~ A DIRECTIVE of the commission issued <—  
7 pursuant to paragraph (10) of section 7 SETTING FORTH A PUBLIC <—  
8 OFFICIAL'S OR PUBLIC EMPLOYEE'S DUTIES UNDER THIS ACT.

9 "Order." A directive of the commission issued pursuant to  
10 paragraph (13) of section 7 ~~after a person who is the subject of~~ <—  
11 ~~an investigation has had an opportunity to seek reconsideration~~  
12 ~~of the preliminary finding and proposed order of the commission~~  
13 ~~issued at the conclusion of an investigation.~~ AT THE CONCLUSION <—  
14 OF AN INVESTIGATION WHICH CONTAINS FINDINGS OF FACT, CONCLUSIONS  
15 OF LAW AND PENALTIES.

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

19 "Political contribution." Any advance, conveyance, deposit,  
20 distribution, transfer of funds, loan, payment, pledge, purchase  
21 of a ticket to a testimonial or similar fund-raising affair, or  
22 subscription of money or anything of value, except volunteer  
23 services, in connection with a political campaign, and any  
24 contract, agreement, promise, or other obligations, whether or  
25 not legally enforceable, to make a political contribution.

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

30 "Preliminary finding." An initial decision of the commission



1 issued at the conclusion of an investigation as set forth in  
2 paragraph (13) of section 7.

3 "Proposed order." An initial directive of the commission  
4 issued at the conclusion of an investigation as set forth in  
5 paragraph (13) of section 7.

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

10 (1) contracting or procurement;

11 (2) administering or monitoring grants or subsidies;

12 (3) planning or zoning;

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

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

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

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

30 "Represent." To act on behalf of any other person in any

1 activity which includes, but is not limited to, the following:  
2 personal appearances, negotiations, lobbying and submitting bid  
3 or contract proposals which are signed by or contain the name of  
4 a former public official or public employee.

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

10 Section 3. Restricted activities.

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

18 (b) No person shall offer or give to a public official, [or]  
19 public employee or nominee or candidate for public office or a  
20 member of his immediate family or a business with which he is  
21 associated, and no public official, [or] public employee or  
22 nominee or candidate for public office shall solicit or accept,  
23 ~~any income, honorarium, gift or anything of value[, including a~~ <—  
24 ~~gift, loan, political contribution, reward, or promise of future~~  
25 ~~employment] based on [any] his understanding that [the] a~~  
26 ~~vote[, or official action[, or judgment of the public official~~  
27 ~~or public employee or candidate for public office] would be~~  
28 ~~influenced thereby. This subsection does not prohibit payment or~~  
29 ~~receipt of a salary, fees, severance payment or proceeds~~  
30 ~~resulting from the sale of a person's interest in a corporation,~~

~~professional corporation, partnership or other entity resulting from termination of or withdrawal from a corporation, professional corporation, partnership or other entity upon the assumption of public office or payments pursuant to an agreement or contract in existence prior to the time a person becomes a nominee or candidate for public office: Provided, however, That such agreement or contract is not based on the understanding, written or otherwise, that the vote or official action of the prospective public official would be influenced thereby.~~

~~(c) No public official or public employee shall accept reimbursement or payment of honoraria, fees or actual and reasonable expenses for a published work or for the presentation of a speech or participation in a meeting unless the work is published or the activity is accomplished by the official or employee without the use of the State's or political subdivision's time, facilities, services or supplies not generally available to all citizens of the State or political subdivision and outside the course of his or her official duties. If a public official or public employee receives a payment not authorized by this subsection, in cash or otherwise, for a published work or a speech or meeting, the official or employee may not retain it, but shall designate a non profit, charitable organization as defined in the Internal Revenue Code cite, other than one with which the official or employee is associated, to receive such payment.~~ ANYTHING OF MONETARY VALUE, <—

INCLUDING A GIFT, LOAN, POLITICAL CONTRIBUTION, REWARD, OR PROMISE OF FUTURE EMPLOYMENT BASED ON [ANY] HIS UNDERSTANDING THAT THE VOTE, OFFICIAL ACTION, OR JUDGMENT OF THE PUBLIC OFFICIAL OR PUBLIC EMPLOYEE OR NOMINEE OR CANDIDATE FOR PUBLIC OFFICE WOULD BE INFLUENCED THEREBY.

1     (C) (1) NO PERSON SHALL SOLICIT OR ACCEPT A SEVERANCE  
2     PAYMENT OR ANYTHING OF MONETARY VALUE CONTINGENT UPON THE  
3     ASSUMPTION OR ACCEPTANCE OF PUBLIC OFFICE OR EMPLOYMENT.

4         (2) THIS SUBSECTION SHALL NOT PROHIBIT:

5             (I) PAYMENTS RECEIVED PURSUANT TO AN EMPLOYMENT  
6             AGREEMENT IN EXISTENCE PRIOR TO THE TIME A PERSON BECOMES  
7             A CANDIDATE OR IS UNDER CONSIDERATION FOR PUBLIC OFFICE  
8             OR MAKES APPLICATION FOR PUBLIC EMPLOYMENT.

9             (II) RECEIPT OF A SALARY, FEES, SEVERANCE PAYMENT OR  
10            PROCEEDS RESULTING FROM THE SALE OF A PERSON'S INTEREST  
11            IN A CORPORATION, PROFESSIONAL CORPORATION, PARTNERSHIP  
12            OR OTHER ENTITY RESULTING FROM TERMINATION OR WITHDRAWAL  
13            THEREFROM UPON THE ASSUMPTION OR ACCEPTANCE OF PUBLIC  
14            OFFICE OR EMPLOYMENT.

15         (3) PAYMENTS MADE OR RECEIVED PURSUANT TO PARAGRAPH  
16         (2)(I) AND (II) SHALL NOT BE BASED ON THE UNDERSTANDING,  
17         WRITTEN OR OTHERWISE, THAT THE VOTE OR OFFICIAL ACTION OF THE  
18         PROSPECTIVE PUBLIC OFFICIAL OR EMPLOYEE WOULD BE INFLUENCED  
19         THEREBY.

20         (4) THIS SUBSECTION SHALL NOT BE APPLIED RETROACTIVELY.

21         ~~[(c)]~~ (d) No public official or public employee or ~~[a member~~ <—  
22         of his immediate family or any business in which the person or a  
23         member of the person's immediate family is ~~associated~~ ~~—a~~ <—  
24         director, officer, owner or holder of stock exceeding 5% of the  
25         equity at fair market value of the business] HIS SPOUSE OR CHILD <—  
26         OR ANY BUSINESS IN WHICH THE PERSON OR HIS SPOUSE OR CHILD IS  
27         ASSOCIATED shall enter into any contract valued at \$500 or more  
28         [with a governmental body unless the contract has been awarded  
29         through an open and public process, including prior public  
30         notice and subsequent public disclosure of all proposals

considered and contracts awarded] with the governmental body  
with which the public official or public employee is associated  
or any subcontract valued at \$500 or more with any person who  
has been awarded a contract with the governmental body with  
which the public official or public employee is associated,  
UNLESS THE CONTRACT HAS BEEN AWARDED THROUGH AN OPEN AND PUBLIC  
PROCESS, INCLUDING PRIOR PUBLIC NOTICE AND SUBSEQUENT PUBLIC  
DISCLOSURE OF ALL PROPOSALS CONSIDERED AND CONTRACTS AWARDED.

<—

Any contract or subcontract made in violation of this subsection  
shall be voidable by a court of competent jurisdiction if the  
suit is commenced within 90 days of the making of the contract  
or subcontract.

~~[(d)]-(e)~~ Other areas of possible conflict shall be  
addressed by the commission pursuant to ~~{paragraph (9)}~~  
~~paragraphs (10), (11), (12), (13), (14) and (15)~~ of section 7.]

<—

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~~{(e)}-(f)~~ No former public official or public employee shall  
represent a person, with or without compensation, on any matter  
before the governmental body with which he has been associated  
for one year after he leaves that body.

<—

~~{(f)}-(g)~~ No person shall use for any commercial purpose  
information copied from statements of financial interests  
required by this act or from lists compiled from such  
statements.

<—

~~{(g)}-(h)~~ No former executive-level State employee may for a  
period of two years from the time that he terminates his State  
employment be employed by, receive compensation from, assist or  
act in a representative capacity for a business or corporation  
that he actively participates in recruiting to the Commonwealth  
of Pennsylvania or that he actively participated in inducing to  
open a new plant, facility or branch in the Commonwealth or that

<—

1 he actively participated in inducing to expand an existent plant  
2 or facility within the Commonwealth, provided that the above  
3 prohibition shall be invoked only when the recruitment or  
4 inducement is accomplished by a grant or loan of money or a  
5 promise of a grant or loan of money from the Commonwealth to the  
6 business or corporation recruited or induced to expand.

7 [(h) (1) Any individual who holds an appointive office in  
8 any political subdivision shall not have an interest in any  
9 contract or construction in which that political subdivision  
10 shall enter or have an interest.

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

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

19 ~~(i) (H) Where voting conflicts are not otherwise addressed~~ <—  
20 ~~by law, rule, regulation, order or ordinance, the following~~  
21 ~~procedure shall be employed. Any public official or public~~  
22 ~~employee, who in the discharge of his official duties, would be~~  
23 ~~required to vote on a matter that would result in a private~~ <—  
24 ~~pecuniary gain or loss for himself, a member of his immediate~~  
25 ~~family, or a business with which he or a member of his immediate~~  
26 ~~family is associated, which is distinct from any gain or loss~~  
27 ~~that might be experienced by a class consisting of the general~~  
28 ~~public or a subclass consisting of an industry, occupation or~~  
29 ~~other group which includes the official or employee, a member of~~  
30 ~~his immediate family or a business with which he or a member of~~

~~his immediate family is associated, shall, prior to voting,~~  
~~publicly announce and also disclose the nature of his interest~~  
~~as a public record in a written memorandum filed with the person~~  
~~responsible for recording the minutes of the meeting at which~~  
~~the vote will be taken.~~ CONFLICT OF INTEREST SHALL ABSTAIN FROM <—  
VOTING AND, PRIOR TO THE VOTE BEING TAKEN, PUBLICLY ANNOUNCE AND  
DISCLOSE THE NATURE OF HIS INTEREST AS A PUBLIC RECORD IN A  
WRITTEN MEMORANDUM FILED WITH THE PERSON RESPONSIBLE FOR  
RECORDING THE MINUTES OF THE MEETING AT WHICH THE VOTE IS TAKEN,  
PROVIDED THAT WHENEVER A GOVERNING BODY WOULD BE UNABLE TO TAKE  
ANY ACTION ON A MATTER BEFORE IT BECAUSE A MAJORITY OF MEMBERS  
OF THE BODY ARE REQUIRED TO ABSTAIN FROM VOTING UNDER THE  
PROVISIONS OF THIS SUBSECTION, THEN SUCH MEMBERS SHALL BE  
PERMITTED TO VOTE IF DISCLOSURES ARE MADE AS OTHERWISE PROVIDED  
HEREIN.

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

(a) Each public official of the Commonwealth shall file a  
statement of financial interests for the preceding calendar year  
with the commission no later than May 1 of each year that he  
holds such a position and of the year after he leaves such a  
position. Each public employee [employed by] and public official  
of the Commonwealth shall file a statement of financial  
interests for the preceding calendar year with the department,  
agency, body or bureau in which he is employed or to which he is  
appointed or elected no later than May 1 of each year that he  
holds such a position and of the year after he leaves such a  
position. Any other public employee ~~and~~ OR public official shall <—  
file a statement of financial interests with the governing  
authority of the political subdivision by which he is employed

1 or within which he is appointed or elected no later than May 1  
2 of each year that he holds such a position and of the year after  
3 he leaves such a position.

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

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

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

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



1     petition.

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

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

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

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

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

30 Section 5. Statement of financial interests.

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

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

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

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

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

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

29 (5) The name and address of any [person who is the]  
30 direct or indirect source of income totalling in the

1 aggregate [\$500] \$1,000 or more. However, this provision  
2 shall not be construed to require the divulgence of  
3 confidential information protected by statute or existing  
4 professional codes of ethics OR COMMON LAW PRIVILEGES. <—

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

12 ~~(7) The name and address of the source, and the fair~~  
13 ~~market value, if determinable, of any honorarium, fee,~~  
14 ~~lodging, transportation, or other thing received in~~  
15 ~~connection with a published work, presentation of a speech or~~  
16 ~~participation in a meeting which is in excess of \$100, if the~~  
17 ~~source of such honoraria, fee, lodging, transportation or~~  
18 ~~other thing received is a person having a direct interest in~~  
19 ~~a matter before the governmental body with which the~~  
20 ~~recipient is associated. This paragraph does not require the~~  
21 ~~disclosure of the value of food or beverage offered~~  
22 ~~coincidentally with presentation of a speech or participation~~  
23 ~~in a meeting.~~

24 [(6) THE NAME AND ADDRESS OF ANY PERSON FROM WHOM A GIFT <—  
25 OR GIFTS VALUED IN THE AGGREGATE AT \$200 OR MORE WERE  
26 RECEIVED, AND THE VALUE AND THE CIRCUMSTANCES OF EACH GIFT.  
27 HOWEVER, THIS PROVISION SHALL NOT BE APPLICABLE TO GIFTS  
28 RECEIVED FROM THE INDIVIDUAL'S SPOUSE, PARENTS, PARENTS BY  
29 MARRIAGE, SIBLINGS, CHILDREN OR GRANDCHILDREN.

30 (7) THE SOURCE OF ANY HONORARIUM RECEIVED WHICH IS IN

1 EXCESS OF \$100.]

2 (6) (I) THE NAME AND ADDRESS OF THE SOURCE AND THE  
3 AMOUNT OF ANY GIFT OR GIFTS VALUED IN THE AGGREGATE AT  
4 \$200 OR MORE AND THE CIRCUMSTANCES OF EACH GIFT. THIS  
5 PARAGRAPH SHALL NOT APPLY TO THE PAYMENT FOR OR  
6 REIMBURSEMENT OF ACTUAL EXPENSES FOR TRANSPORTATION AND  
7 LODGING OR HOSPITALITY RECEIVED IN CONNECTION WITH PUBLIC  
8 OFFICE OR EMPLOYMENT, UNLESS SUCH ACTUAL EXPENSES FOR  
9 TRANSPORTATION AND LODGING EXCEED \$150 IN THE COURSE OF A  
10 SINGLE OCCURRENCE OR UNLESS THE VALUE RECEIVED FOR SUCH  
11 HOSPITALITY EXCEEDS \$50 IN THE COURSE OF A SINGLE  
12 OCCURRENCE. THIS PARAGRAPH SHALL NOT APPLY TO EXPENSES  
13 ELIGIBLE FOR REIMBURSEMENT BY THE GOVERNMENTAL BODY WITH  
14 WHICH THE PUBLIC OFFICIAL OR EMPLOYEE IS ASSOCIATED; NOR  
15 SHALL THIS PARAGRAPH APPLY TO A GIFT OR GIFTS RECEIVED  
16 FROM A SPOUSE, PARENT, PARENT BY MARRIAGE, SIBLING,  
17 CHILD, GRANDCHILD, OTHER FAMILY MEMBER OR FRIEND WHEN THE  
18 CIRCUMSTANCES MAKE IT CLEAR THAT THE MOTIVATION FOR THE  
19 ACTION WAS A PERSONAL OR FAMILY RELATIONSHIP.

20 (II) A PERSON WHO IS THE SOURCE OF ANY GIFT OR GIFTS  
21 REQUIRED TO BE REPORTED PURSUANT TO THIS SUBSECTION  
22 SHALL, QUARTERLY, INFORM THE RECIPIENT OF THE VALUE AND  
23 AGGREGATE VALUE AND CIRCUMSTANCES OF SUCH GIFT OR GIFTS.

24 (7) THE NAME AND ADDRESS OF THE SOURCE AND THE AMOUNT OF  
25 ANY HONORARIUM RECEIVED WHICH IS IN EXCESS OF \$100.

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

28 (9) Any financial interest in any legal entity engaged  
29 in business for profit.

30 (10) The identity of any financial interest in a

business with which the reporting person is or has been  
associated in the preceding calendar year which has been  
transferred to a member of the reporting person's immediate  
family. ~~Provided, however, That a member of the reporting~~ <—  
~~person's immediate family need not report any such transfer~~  
~~to the reporting person.~~

(c) The statement of financial interest need not include  
specific amounts for any of the items required to be listed.

Section 6. State Ethics Commission.

(a) There is established a State Ethics Commission composed  
of seven members[,]. The President pro tempore of the Senate,  
the Minority Leader of the Senate, the Speaker of the House, and  
the Minority Leader of the House shall each appoint one member.  
Three members shall be appointed by the Governor without  
confirmation. No more than two of the members appointed by the  
Governor shall be of the same political party. NO APPOINTEE <—  
SHALL HAVE SERVED AS AN OFFICER IN A POLITICAL PARTY FOR ONE  
YEAR PRIOR TO HIS APPOINTMENT.

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

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

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

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

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

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

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

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

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

(4) directly or indirectly attempt to influence any decision by a governmental body, other than a court of law or 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

1 or any four members of the commission may call a meeting  
2 provided that advance written notice is mailed to each member  
3 and to any person who requests notice of such meetings.

4 (h) Members of the commission shall be compensated at a rate  
5 of [\$50] \$75 per day and shall receive reimbursement for their  
6 actual and necessary expenses while performing the business of  
7 the commission.

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

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

23 In addition to other powers and duties prescribed by law, the  
24 commission shall:

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

27 (2) Prescribe forms for statements and reports required  
28 to be filed by this act and furnish such forms to persons  
29 required to file such statements and reports.

30 (3) Prepare and publish guidelines setting forth

recommended uniform methods of accounting and reporting for use by persons required to file statements and reports by this act.

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

~~(5) Inspect all statements of financial interests WHICH HAVE BEEN filed with the commission and receive reports from other agencies which serve as depositories for such statements in order to ascertain whether any reporting person has failed to file such a statement or has filed a deficient statement. If, upon inspection, it is determined that a reporting person has failed to file a statement of financial interests or that any statement which has been filed fails to conform with the requirements of section 5, then the commission shall, in writing, notify the person. Such notice shall state in detail the deficiency and the penalties for failure to file or for filing a deficient statement of financial interests.~~ <— <—

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

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



1           [(7)] (8) Prepare and publish annual summaries of  
2 statements and reports filed with the commission.

3           [(8)] (9) Preserve statements and reports filed with the  
4 commission for a period of five years from date of receipt  
5 and advise other State and local agencies which receive and  
6 store financial interest statements to preserve such  
7 statements for a period of five years from date of receipt.

8           [(9) (i)] (10) Issue to any person, upon such person's  
9 request, an opinion with respect to such person's duties  
10 under this act. The commission shall, within 14 days, either  
11 issue the opinion or advise the person who made the request  
12 whether an opinion will be issued. No person who acts in good  
13 faith on an opinion issued to him by the commission shall be  
14 subject to criminal or civil penalties for so acting,  
15 provided that the material facts are as stated in the opinion  
16 request. The commission's opinions shall be public records  
17 and may from time to time be published.

18           [(ii)] (11) Provide written advice to any person  
19 upon their request with respect to such person's duties under  
20 this act. Such advice shall be provided within 21 working  
21 days of the request, provided that the time may be extended  
22 for good cause. It shall be a complete defense in any  
23 enforcement proceeding initiated by the commission, and  
24 evidence of good faith conduct in any other civil or criminal  
25 proceeding, if the requester, at least 21 working days prior  
26 to the alleged violation, requested written advice from the  
27 commission in good faith, disclosed truthfully all the  
28 material facts and committed the acts complained of either in  
29 reliance on the advice or because of the failure of the  
30 commission to provide advice within 21 days of the request

1 [of] or such later extended time.

2 [(iii)] (12) Initiate an inquiry, pursuant to  
3 section 8(a), where [an opinion] a complaint has not been  
4 [requested] filed but where there [is a reasonable belief]  
5 may be reason to believe that a conflict [may exist] exists.  
6 [Such inquiry shall be conducted in privacy with full respect  
7 to the confidentiality of all the parties involved in the  
8 alleged conflict. If the commission finds that there is a  
9 conflict, the information shall be provided for criminal  
10 proceedings unless the alleged offender removes himself from  
11 the conflict with receiving financial gain.

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

28 (13) Issue preliminary findings, proposed orders and  
29 orders relating to investigations initiated pursuant to  
30 section 8, which set forth the alleged violation, findings of

1 fact and conclusions of law. An order may include  
2 recommendations to law enforcement officials. Any order  
3 resulting from a finding that a public official or public  
4 employee has obtained a financial gain in violation of this  
5 act may, after affording the person who is the subject of the  
6 investigation an opportunity for a hearing in accordance with  
7 section ~~8(f)~~ 8(G), require the restitution plus interest of <—  
8 that gain to the appropriate governmental body. The  
9 commission or the Office of Attorney General shall have  
10 standing to apply to the Commonwealth Court to seek  
11 enforcement of an order requiring such restitution. This  
12 restitution requirement shall be in addition to any other  
13 penalties provided for in this act.

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

16 [(11)] (15) Make recommendations to law enforcement  
17 officials either for criminal prosecution or dismissal of  
18 charges arising out of violations of this act.

19 [(12)] (16) Prepare and publish special reports,  
20 educational materials, and technical studies to further the  
21 purposes of this act.

22 [(13)] (17) Prepare and publish, prior to June 1 of each  
23 year, an annual report summarizing the activities of the  
24 commission.

25 Section 8. Investigations by the commission.

26 (a) Upon a complaint signed under penalty of perjury by any  
27 person or upon its own motion, the commission [shall  
28 investigate], through its executive director, shall conduct a  
29 preliminary inquiry into any alleged violation of this act. [All  
30 commission proceedings and records relating to an investigation

1 shall be confidential until a final determination is made by the  
2 commission. The executive director shall notify any person under  
3 investigation by the commission of the investigation and of the  
4 nature of the alleged violation within five days of the  
5 commencement of the investigation. Within 15 days of the filing  
6 of a sworn complaint by a person alleging a violation, and every  
7 30 days thereafter until the matter is terminated, the executive  
8 director shall notify the complainant of the action taken to  
9 date by the commission together with the reasons for such action  
10 or nonaction.] The commission shall keep information, records  
11 and proceedings relating to a preliminary inquiry confidential.  
12 THE COMMISSION SHALL, HOWEVER, HAVE THE AUTHORITY TO REFER THE <—  
13 CASE TO LAW ENFORCEMENT OFFICIALS DURING A PRELIMINARY INQUIRY  
14 OR ANYTIME THEREAFTER WITHOUT PROVIDING NOTICE TO THE SUBJECT OF  
15 THE INQUIRY. The commission shall complete its preliminary  
16 inquiry within 30 days of its initiation.

17 (b) If a preliminary [investigation] inquiry fails to  
18 [indicate probable cause for belief] establish reason to believe  
19 that this act has been violated, the commission shall terminate  
20 the [investigation] inquiry and so notify the complainant and  
21 the person who had been [under investigation.] the subject of  
22 the inquiry. If the commission determines that a complaint is  
23 frivolous, it shall so state.

24 (c) If a preliminary inquiry establishes reason to believe  
25 that this act has been violated, the commission may, through its  
26 executive director, initiate an investigation to determine if  
27 there has been a violation. The commission shall keep  
28 information, records and proceedings relating to an  
29 investigation confidential until a final determination is made,  
30 except as otherwise provided in subsection (f). No investigation

1 may be commenced until the person who is the subject of the  
2 investigation has been notified ~~of the investigation~~ and <—  
3 provided a general statement of the alleged violation or  
4 violations of the act and other applicable statutes with respect  
5 to such investigation. Service of notice is complete upon  
6 mailing WHICH SHALL BE BY CERTIFIED OR REGISTERED MAIL. The <—  
7 commission shall notify the complainant within ~~five days~~ 72 <—  
8 HOURS of the commencement of an investigation and, thereafter,  
9 the commission shall advise the complainant and the person who  
10 is the subject of the investigation of the status of the  
11 investigation at least every 90 days until the investigation  
12 terminated. ~~The commission shall complete its investigation~~ <—  
13 ~~within 180 days:~~ Provided, however, That the commission may, by  
14 ~~a majority vote of the members present, extend an investigation~~  
15 ~~for an additional 90 day period.~~ THE COMMISSION SHALL, WITHIN <—  
16 180 DAYS OF THE INITIATION OF AN INVESTIGATION, EITHER TERMINATE  
17 THE INVESTIGATION PURSUANT TO SUBSECTION (D) OR ISSUE  
18 PRELIMINARY FINDINGS AND A PROPOSED ORDER PURSUANT TO SUBSECTION  
19 (E). UPON A SHOWING BY THE EXECUTIVE DIRECTOR OF THE NEED FOR  
20 EXTENSION OF THIS PERIOD, THE COMMISSION MAY EXTEND AN  
21 INVESTIGATION FOR UP TO TWO 90-DAY PERIODS, PROVIDED THAT EACH  
22 90-DAY EXTENSION SHALL BE APPROVED BY A MAJORITY VOTE OF MEMBERS  
23 PRESENT. IN NO EVENT SHALL PRELIMINARY FINDINGS AND A PROPOSED  
24 ORDER BE ISSUED LATER THAN 360 DAYS AFTER INITIATION OF AN  
25 INVESTIGATION.

26 (d) If an investigation conducted under this act indicates  
27 that no violation has been committed, the commission shall  
28 ~~immediately file an order terminating~~ TERMINATE the <—  
29 investigation and send written notice of such determination to  
30 the complainant and the person who was the subject of the

1 investigation.

2 ~~(c) If an investigation conducted under this act indicates~~ <—  
3 ~~that there is probable cause for believing that a violation of~~  
4 ~~the act has been committed, the commission may take appropriate~~  
5 ~~action in accordance with paragraphs (13), (14) and (15) of~~  
6 ~~section 7.~~

7 ~~(f) Orders shall be final within 15 days of service thereof~~  
8 ~~unless a request for reconsideration of the order is filed with~~  
9 ~~the commission. Any person who is the subject of an order may~~  
10 ~~request a hearing before the commission in conjunction with a~~  
11 ~~petition for reconsideration of the order. Any such request for~~  
12 ~~a hearing shall be granted by the commission. A hearing pursuant~~  
13 ~~to this subsection shall be by closed session unless the person~~  
14 ~~who is the subject of the order requests an open session. The~~  
15 ~~hearing shall be held within 60 days of the date it is requested~~  
16 ~~unless the person who is the subject of the order petitions for~~  
17 ~~a later date. Any person who appears before the commission shall~~  
18 ~~have all of the due process rights, privileges and~~  
19 ~~responsibilities of a party or witness appearing before an~~  
20 ~~administrative agency of this Commonwealth. All witnesses~~  
21 ~~summoned before the commission shall receive reimbursement for~~

22 ~~(E) IF THE COMMISSION DETERMINES THAT A VIOLATION HAS BEEN~~ <—  
23 ~~COMMITTED, IT SHALL ISSUE PRELIMINARY FINDINGS AND A PROPOSED~~  
24 ~~ORDER TO THE SUBJECT OF THE INVESTIGATION. THE SUBJECT SHALL~~  
25 ~~HAVE THE RIGHT TO A HEARING. WITHIN 30 DAYS OF THE CONCLUSION OF~~  
26 ~~THE HEARING, OR, WHEN NO HEARING IS HELD, THEN WITHIN 30 DAYS OF~~  
27 ~~THE ISSUANCE OF THE PRELIMINARY FINDINGS AND PROPOSED ORDER, THE~~  
28 ~~COMMISSION SHALL ISSUE AN ORDER WHICH SHALL BE FINAL.~~

29 ~~(F) UPON RECEIPT OF A FINAL ORDER, THE SUBJECT SHALL HAVE~~  
30 ~~THE RIGHT TO FILE A PETITION FOR RECONSIDERATION BY THE~~

1 COMMISSION WHICH MAY INCLUDE A REQUEST FOR A HEARING.

2 (G) HEARINGS CONDUCTED PURSUANT TO SUBSECTIONS (E) AND (F)  
3 SHALL BE CLOSED TO THE PUBLIC UNLESS THE SUBJECT REQUESTS AN  
4 OPEN HEARING. ANY PERSON WHO APPEARS BEFORE THE COMMISSION SHALL  
5 HAVE ALL OF THE DUE PROCESS RIGHTS, PRIVILEGES AND  
6 RESPONSIBILITIES OF A PARTY OR WITNESS APPEARING BEFORE AN  
7 ADMINISTRATIVE AGENCY OF THIS COMMONWEALTH. ALL WITNESSES  
8 SUMMONED FOR SUCH HEARINGS SHALL RECEIVE REIMBURSEMENT FOR  
9 reasonable expenses in accordance with 42 Pa.C.S. § 5903  
10 (relating to compensation and expenses of witnesses). At the  
11 conclusion of a hearing concerning an alleged violation and in a  
12 timely manner, the commission shall deliberate on the evidence  
13 and determine, by majority vote of the members present, whether  
14 there has been a violation of this act. The determination of the  
15 commission, in the form of a final order and findings of fact,  
16 shall be a matter of public record.

17 ~~(g)~~ (H) Orders which become final in accordance with the <—  
18 provisions of this section shall be available as public  
19 documents, but the files and records of the commission relating  
20 to the case shall remain confidential.

21 ~~(h)~~ (I) No action may be taken by the commission on a <—  
22 complaint filed against a public official or public employee  
23 unless the alleged offense was committed during the period of  
24 time within which the official or employee was in public office,  
25 was a nominee or candidate for public office, or was employed as  
26 a public employee, or within five years thereafter.

27 ~~(i)~~ (J) Any person aggrieved by an opinion or order which <—  
28 becomes final in accordance with the provisions of this act who  
29 has direct interest in such opinion or order shall have the  
30 right to appeal therefrom in accordance with law and general

1 rules.

2 ~~(j)~~ (K) No public official or public employee shall <—  
3 discharge any official or employee or change his official rank,  
4 grade or compensation, or deny him a promotion, or threaten to  
5 do so, for filing a complaint with or providing information to  
6 the commission or testifying in any commission proceeding.

7 Section 9. Penalties.

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

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

17 (c) Any person who obtains financial gain from violating any  
18 provision of this act, in addition to any other penalty provided  
19 by law, shall pay [into the State Treasury] a sum of money equal  
20 to ~~or up to~~ three times the amount of the financial gain <—  
21 resulting from such violation into the State Treasury or the  
22 treasury of the political subdivision, whichever suffered a loss <—  
23 because of the violation.

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

28 (e) Any person who violates the confidentiality of a  
29 commission proceeding pursuant to section 8, is guilty of a  
30 misdemeanor and shall be fined not more than \$1,000 or



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

12 (f) In addition to any other civil remedy or criminal  
13 penalty provided for in this act, the commission may, after  
14 notice has been served in accordance with paragraph (5) of  
15 section 7 and upon a majority vote of its members, levy a civil  
16 penalty upon any person subject to this act who fails to file a  
17 statement of financial interest in a timely manner or who files  
18 a deficient statement of financial interests, at a rate of not  
19 more than \$25 for each day such statement remains delinquent or  
20 deficient. THE MAXIMUM PENALTY PAYABLE UNDER THIS PARAGRAPH IS <—  
21 \$250.

22 ~~{Section 10. Court employees.~~ <—

23 SECTION 10. [COURT EMPLOYEES.] CONSTABLES. <—

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

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

<—

5 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

<—

6 SECTION 10.1. WRONGFUL USE OF ACT.

7 (A) A PERSON WHO SIGNS A COMPLAINT ALLEGING A VIOLATION OF  
8 THIS ACT AGAINST ANOTHER IS SUBJECT TO LIABILITY FOR WRONGFUL  
9 USE OF THIS ACT IF:

10 (1) HE ACTED IN A GROSSLY NEGLIGENT MANNER OR WITHOUT  
11 PROBABLE CAUSE AND PRIMARILY FOR A PURPOSE OTHER THAN THAT OF  
12 REPORTING A VIOLATION OF THIS ACT;

13 (2) HE PUBLICLY DISCLOSED OR CAUSED TO BE DISCLOSED THAT  
14 A COMPLAINT AGAINST A PERSON HAD BEEN FILED WITH THE  
15 COMMISSION; AND

16 (3) THE COMMISSION DETERMINED THAT THE COMPLAINT WAS  
17 FRIVOLOUS AS DEFINED BY THIS ACT OR CONCLUDED THAT THERE WAS  
18 A LACK OF PROBABLE CAUSE FOR BELIEF THAT THIS ACT HAD BEEN  
19 VIOLATED BY THE PERSON.

20 (B) A PERSON WHO SIGNS A COMPLAINT ALLEGING A VIOLATION OF  
21 THIS ACT HAS PROBABLE CAUSE FOR DOING SO IF HE REASONABLY  
22 BELIEVES IN THE EXISTENCE OF THE FACTS UPON WHICH THE CLAIM IS  
23 BASED AND EITHER:

24 (1) REASONABLY BELIEVES THAT UNDER THOSE FACTS THE  
25 COMPLAINT MAY BE VALID UNDER THIS ACT; OR

26 (2) BELIEVES TO THIS EFFECT IN RELIANCE UPON THE ADVICE  
27 OF COUNSEL, SOUGHT IN GOOD FAITH AND GIVEN AFTER FULL  
28 DISCLOSURE OF ALL RELEVANT FACTS WITHIN HIS KNOWLEDGE AND  
29 INFORMATION.

30 (C) WHEN THE ESSENTIAL ELEMENTS OF AN ACTION BROUGHT

1 PURSUANT TO THIS SECTION HAVE BEEN ESTABLISHED, THE PLAINTIFF IS  
2 ENTITLED TO RECOVER THE FOLLOWING:

3 (1) THE HARM TO HIS REPUTATION BY A DEFAMATORY MATTER  
4 ALLEGED AS THE BASIS OF THE PROCEEDING.

5 (2) THE EXPENSES, INCLUDING ANY REASONABLE ATTORNEY  
6 FEES, THAT HE HAS REASONABLY INCURRED IN PROCEEDINGS BEFORE  
7 THE COMMISSION.

8 (3) ANY SPECIFIC PECUNIARY LOSS THAT HAS RESULTED FROM  
9 THE PROCEEDINGS.

10 (4) ANY EMOTIONAL DISTRESS THAT HAS BEEN CAUSED BY THE  
11 PROCEEDINGS.

12 (5) ANY PUNITIVE DAMAGES ACCORDING TO LAW IN APPROPRIATE  
13 CASES.

14 SECTION 3. SECTION 11 OF THE ACT IS REENACTED AND AMENDED TO  
15 READ:

16 Section 11. Supplemental provisions.

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

20 SECTION 4. SECTIONS 12 AND 13 OF THE ACT ARE REENACTED TO  
21 READ:

22 Section 12. Conflict of law.

23 If the provisions of this act conflict with any other  
24 statute, ordinance, regulation or rule, the provisions of this  
25 act shall control.

26 Section 13. Severability.

27 If any provision of this act, or the application thereof to  
28 any person or circumstance, is held invalid, the validity of the  
29 remainder of this act and the application of such provisions to  
30 other persons and circumstances shall not be affected thereby.

1       Section ~~2~~ 5. Section 14 of the act, amended February 26,       <—  
2       1979 (P.L.1, No.1), is reenacted to read:

3       Section 14. Effective date.

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

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

22      Section ~~4~~ 7. All rules and regulations promulgated by the       <—  
23      State Ethics Commission shall remain in full force and effect  
24      until amended or rescinded by the commission, provided that the  
25      commission shall immediately initiate action to rescind or amend  
26      any rule or regulation that is in conflict with the provisions  
27      of this amendatory act or to promulgate additional regulations  
28      which may be required to implement the provisions of this  
29      amendatory act.

30      Section ~~5~~ 8. This act, with respect to the State Ethics       <—

1 Commission, constitutes the legislation required to reestablish  
2 an agency pursuant to the act of December 22, 1981 (P.L.508,  
3 No.142), known as the Sunset Act. The State Ethics Commission  
4 shall continue, together with its statutory functions and  
5 duties, until December 31, 1992, when it shall terminate and go  
6 out of existence unless reestablished or continued by the  
7 General Assembly for an additional ten years. Evaluation,  
8 review, termination, reestablishment and continuation of the  
9 agency beyond December 31, 1992, and every tenth year  
10 thereafter, shall be conducted pursuant to the Sunset Act.

11 SECTION 9. THIS AMENDATORY ACT SHALL NOT APPLY TO VIOLATIONS <—  
12 COMMITTED PRIOR TO THE EFFECTIVE DATE OF THIS ACT, AND CAUSES OF  
13 ACTION INITIATED FOR SUCH VIOLATIONS SHALL BE GOVERNED BY THE  
14 PRIOR LAW, WHICH IS CONTINUED IN EFFECT FOR THAT PURPOSE AS IF  
15 THIS ACT WERE NOT IN FORCE. FOR THE PURPOSES OF THIS SECTION, A  
16 VIOLATION WAS COMMITTED PRIOR TO THE EFFECTIVE DATE OF THIS ACT  
17 IF ANY ELEMENTS OF THE VIOLATION OCCURRED PRIOR THERETO.

18 Section ~~6~~ 10. This act shall take effect January 1, 1988. <—