

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1398 Session of
2014

INTRODUCED BY YUDICHAK, ERICKSON, EICHELBERGER, FARNESE,
TEPLITZ, FONTANA, COSTA, BREWSTER, SMITH AND HUGHES,
JUNE 3, 2014

REFERRED TO STATE GOVERNMENT, JUNE 3, 2014

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, further providing for short title of
3 chapter, for purpose and for definitions; providing for
4 establishment and operation of nominating committee, for
5 Pennsylvania Public Integrity Commission, for limitations on
6 activities by commissioners and employees, for powers and
7 duties of commission, for authority, qualification, training
8 and identification of investigative employees designated as
9 law enforcement officers, for photo identification, for
10 immunity of witnesses and for enforcement of subpoenas;
11 further providing for restricted activities, for statement of
12 financial interests required to be filed, for State Ethics
13 Commission, for its powers and duties, for investigations by
14 commission and for penalties; providing for costs,
15 restitutions and forfeiture; and further providing for
16 wrongful use of chapter; providing for disclosure of
17 executive session testimony and investigative records, for
18 privileged statements and reports, for commission disclosure
19 of economic interests and for applicable statutes.

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

22 Section 1. Sections 1101 and 1101.1 of Title 65 of the
23 Pennsylvania Consolidated Statutes are amended to read:

24 § 1101. Short title of chapter.

25 This chapter shall be known and may be cited as the [Public
26 Official and Employee Ethics] Pennsylvania Public Integrity

1 Commission Act.

2 § 1101.1. Purpose.

3 (a) [Declarations.--The Legislature hereby declares that
4 public office is a public trust and that any effort to realize
5 personal financial gain through public office other than
6 compensation provided by law is a violation of that trust. In
7 order to strengthen the faith and confidence of the people of
8 this Commonwealth in their government, the Legislature further
9 declares that the people have a right to be assured that the
10 financial interests of holders of or nominees or candidates for
11 public office do not conflict with the public trust. Because
12 public confidence in government can best be sustained by
13 assuring the people of the impartiality and honesty of public
14 officials, this chapter shall be liberally construed to promote
15 complete financial disclosure as specified in this chapter.
16 Furthermore, it is recognized that clear guidelines are needed
17 in order to guide public officials and employees in their
18 actions. Thus, the General Assembly by this chapter intends to
19 define as clearly as possible those areas which represent
20 conflict with the public trust.] Legislative intent.--It is the
21 intent of the General Assembly that this chapter promote the
22 following public policy purposes and objectives:

23 (1) Uncover and investigate public corruption within the
24 Commonwealth:

25 (i) at all levels of government, including State,
26 county and local; and

27 (ii) in all branches of government, including
28 legislative, executive and judicial.

29 (2) Establish a Pennsylvania Public Integrity Commission
30 which serves both a law enforcement role as a criminal

1 justice agency concerning specific criminal violations and an
2 educational role for public officials, public employees,
3 district attorneys, other law enforcement entities, the
4 General Assembly and the public.

5 (3) Encourage the Pennsylvania Public Integrity
6 Commission to work cooperatively with the Attorney General,
7 the Pennsylvania State Police, district attorneys and other
8 law enforcement entities in conducting its mission.

9 (4) Promote administration of this chapter by the
10 Pennsylvania Public Integrity Commission in a manner which is
11 cognizant of the responsibilities and burdens of public
12 officials and employees who have demonstrated an interest in
13 promoting public confidence in government.

14 (b) [Recognition.--It is recognized that many public
15 officials, including most local officials and members of the
16 General Assembly, are citizen-officials who bring to their
17 public office the knowledge and concerns of ordinary citizens
18 and taxpayers. They should not be discouraged from maintaining
19 their contacts with their community through their occupations
20 and professions. Thus, in order to foster maximum compliance
21 with its terms, this chapter shall be administered in a manner
22 that emphasizes guidance to public officials and public
23 employees regarding the ethical standards established by this
24 chapter.] Declarations.--The Legislature hereby declares that
25 public office is a public trust and that any effort to realize
26 personal financial gain through public office other than
27 compensation provided by law is a violation of that trust. The
28 Legislature also declares the public would be best served by a
29 Statewide criminal justice agency which focuses on investigating
30 criminal incidents of public corruption. In order to strengthen

the faith and confidence of the people of this Commonwealth 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 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 chapter shall be liberally construed to promote complete financial disclosure as specified in this chapter. Furthermore, it is recognized that clear guidelines are needed in order to guide public officials and employees in their actions. Thus, the General Assembly by this chapter intends to define as clearly as possible those areas which represent conflict with the public trust.

[(c) Legislative intent.--It is the intent of the General Assembly that this chapter be administered by an independent commission composed of members who are cognizant of the responsibilities and burdens of public officials and employees and who have demonstrated an interest in promoting public confidence in government.].

Section 2. The definitions of "advice," "business with which he is associated," "candidate," "commission," "conflict" or "conflict of interest," "contract," "findings report," "opinion" and "order" in section 1102 of Title 65 are amended and the section is amended by adding definitions to read:

§ 1102. Definitions.

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

"Advice." Any directive of the chief counsel of the [State Ethics Commission] commission issued under section [1107(11)]

1 1102.4(15) (relating to powers and duties of commission) and
2 based exclusively on prior commission opinions, prior opinions
3 of the State Ethics Commission, this chapter, regulations
4 promulgated pursuant to this chapter and court opinions which
5 interpret this chapter.

6 * * *

7 "Business with which [he] a person is associated." Any
8 business in which the person or a member of the person's
9 immediate family is a director, officer, owner, employee or has
10 a financial interest.

11 "Candidate." Any individual who seeks nomination or election
12 to public office by vote of the electorate, other than a judge
13 of elections, inspector of elections or official of a political
14 party, whether or not such individual is nominated or elected.
15 An individual shall be deemed to be seeking nomination or
16 election to such office if [he] the individual has:

17 (1) received a contribution or made an expenditure or
18 given [his] consent for any other person or committee to
19 receive a contribution or make an expenditure for the purpose
20 of influencing [his] the nomination or election to such
21 office, whether or not the individual has announced the
22 specific office for which [he] the individual will seek
23 nomination or election at the time the contribution is
24 received or the expenditure is made; or

25 (2) taken the action necessary under the laws of this
26 Commonwealth to qualify [himself] the individual for
27 nomination or election to such office.

28 The term shall include individuals nominated or elected as
29 write-in candidates unless they resign such nomination or
30 elected office within 30 days of having been nominated or

1 elected.

2 "Commission." The [State Ethics] Pennsylvania Public
3 Integrity Commission.

4 * * *

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

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

1 subdivision.

2 "Court." The Commonwealth Court.

3 * * *

4 "Findings report." An initial report containing findings of
5 fact as determined by the [State Ethics Commission's]
6 commission's investigation but not containing any conclusions of
7 law or any determination of whether there has been a violation
8 of law.

9 * * *

10 "Immunity order." An order issued under this chapter by the
11 court directing a witness to testify or produce other
12 information over a claim of privilege against self-
13 incrimination.

14 * * *

15 "Opinion." A directive of the [State Ethics Commission]
16 commission issued pursuant to section [1107(10)] 1102.4(14)
17 (relating to powers and duties of commission) setting forth a
18 public official's or public employee's duties under this
19 chapter.

20 "Order." A directive of the [State Ethics Commission]
21 commission issued pursuant to section [1107(13)] 1102.4(17)
22 (relating to powers and duties of commission) at the conclusion
23 of an investigation which contains findings of fact, conclusions
24 of law and penalties.

25 * * *

26 "Public corruption." The unlawful activity, under color of
27 or in connection with any public office or employment, of any
28 individual:

29 (1) employed by an agency as defined in the act of
30 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know

1 Law; or

2 (2) elected by the public, appointed by a governmental
3 body or an appointed official in an agency as defined in the
4 Right-to-Know Law.

5 * * *

6 Section 3. Title 65 is amended by adding sections to read:

7 § 1102.1. Establishment and operation of nominating committee.

8 (a) Establishment.--When a vacancy exists in the commission,
9 a nominating committee shall be established and selected as
10 provided in this section.

11 (b) List of current nominees.--A nominating committee shall
12 compile a list of 15 current nominees to fill a vacancy in the
13 commission. A list of nominees shall not have more than six
14 members of the same political party. After the vacancy in the
15 commission for which the nominating committee was established
16 has been filled, the list of 15 current nominees shall be
17 discarded, and a subsequent vacancy shall not be filled from
18 that list. This section shall not preclude the inclusion of a
19 nominee in a subsequent list of nominees.

20 (c) Selection and composition.--The nominating committee
21 shall be selected as follows:

22 (1) The President pro tempore of the Senate shall
23 appoint three members of the nominating committee. One
24 appointee shall be a current or former district attorney.
25 Two appointees shall be current or former deans of a
26 Pennsylvania law school accredited by the American Bar
27 Association.

28 (2) The Minority Leader of the Senate shall appoint two
29 members of the nominating committee. One appointee shall be a
30 current or former dean of a Pennsylvania law school

1 accredited by the American Bar Association. One appointee
2 shall be a member or employee of a nonprofit, nonpartisan
3 citizen's lobbying organization that has been in existence
4 for no fewer than 30 years.

5 (3) No more than three members of the nominating
6 committee shall be members of the same political party.

7 (d) Chairperson.--The members of the nominating committee
8 shall select a chairperson of the committee from among the
9 members.

10 (e) Term.--The members of the nominating committee shall
11 serve until the vacancy in the commission for which the
12 nominating committee was created has been filled. Nothing in
13 this section shall preclude the reappointment of a member of a
14 nominating committee to a subsequent nominating committee.

15 (f) Expenses.--The members of a nominating committee shall
16 serve without compensation but shall be entitled to reasonable
17 travel, hotel and other necessary expenses from the funds of the
18 commission as approved by the commission. The expenses shall not
19 exceed the applicable per diem rates established by the United
20 States General Services Administration.

21 (g) Support.--The commission shall provide administrative
22 assistance to a nominating committee.

23 (h) Vacancies.--Vacancies in a nominating committee before
24 the expiration of its term shall be filled for the remainder of
25 the term in the same manner as original appointments.

26 (i) Removal.--The appointing authority of a member of a
27 nominating committee may remove that member for good cause.

28 (j) Procedure.--The following shall apply to a nominating
29 committee procedure:

30 (1) A majority of the members of a nominating committee

1 constitutes a quorum. A member of a nominating committee
2 shall participate at a meeting of the committee in person or
3 by teleconference or video conference for the purposes of
4 meeting a quorum.

5 (2) Voting shall be direct, including voting by
6 teleconference or video conference. Voting by proxy shall not
7 be permitted.

8 (k) Meetings.--A nominating committee shall meet as needed
9 at the call of the chairperson.

10 § 1102.2. Commission.

11 (a) Continuation of State Ethics Commission.--The commission
12 is a successor to and a continuation of the State Ethics
13 Commission established under the act of October 4, 1978
14 (P.L.883, No.170), referred to as the Public Official and
15 Employee Ethics Law. The commission shall be an independent
16 administrative body consisting of seven members who shall be
17 known as commissioners.

18 (b) Continuation of commissioners of the State Ethics
19 Commission.--Upon the effective date of this section, the
20 current commissioners of the State Ethics Commission shall
21 continue to serve as administrators of this chapter with all of
22 the duties, powers, rights and responsibilities of commissioners
23 of the commission until no fewer than four commissioners are
24 appointed under subsection (c).

25 (c) Composition.--The commissioners shall be appointed by
26 the Governor, subject to the consent of two-thirds of the
27 members elected to the Senate, from the list of current nominees
28 prepared by a nominating committee under section 1102.1
29 (relating to establishment and operation of nominating
30 committee). The commission shall not have more than three

commissioners of the same political party.

(d) Term.--The original commissioners shall be appointed as follows:

(1) Three shall be appointed for a term of one year.

(2) Three shall be appointed for a term of two years.

(3) One shall be appointed for a term of three years.

After the original commissioners are appointed, appointments shall be for a term of three years.

(e) Vacancy and reappointment.--A vacancy shall be filled for the remainder of the unexpired term in the same manner as an original appointment. Upon the expiration of a term, a commissioner shall continue to hold office until a successor has been duly appointed, but not longer than six months after the expiration of the commissioner's appointed term. A commissioner may be reappointed to serve one three-year term if included on the list of current nominees for that vacancy provided by a nominating committee under section 1102.1.

(f) Chairperson.--The commissioners shall meet on an annual basis to select a chairperson of the commission from among the commissioners.

(g) Compensation and expenses.--A commissioner shall receive \$100-a-day compensation for every meeting of the commission at which the commissioner participates in person and a quorum of the commission is present. A commissioner shall be entitled to reasonable travel, hotel and other necessary expenses as approved by the commission, but the expenses shall not exceed the applicable per diem rates established by the United States General Services Administration.

(h) Removal.--Except as authorized under this subsection, a commissioner shall not be removed from office during his term. A

commissioner may be removed from office in the following
circumstances:

(1) Upon clear and convincing evidence of misfeasance or
malfeasance in office or neglect of duty by a commissioner,
the Governor may remove a commissioner prior to the
expiration of the term. The Governor shall provide the
commissioner who is removed with a statement of the reasons
for the removal.

(2) A commissioner who fails to attend, in person or by
teleconference or video conference, three consecutive
meetings shall forfeit the position on the commission unless
the chairperson, upon written request from the commissioner,
finds the commissioner should be excused for good cause.

A commissioner who is removed may petition the court for
reinstatement. The court shall hold an expedited hearing and
render a decision within 30 days after the hearing or as soon
thereafter as may be practicable. A decision of the court that
is adverse to a commissioner who is removed shall result in a
vacancy that shall be filled under this chapter.

(i) Procedure.--All of the following shall apply to
commission procedure:

(1) A majority of the commissioners constitutes a
quorum. A commissioner must participate at a meeting of the
commission in person or by teleconference or video conference
for the purpose of meeting a quorum.

(2) Voting must be direct, including voting by
teleconference or video conference. Voting by proxy shall not
be permitted.

(j) Meetings.--The commission shall meet no fewer than once
every two months and at additional times as necessary to conduct

1 the business of the commission.

2 § 1102.3. Limitations on activities by commissioners and
3 employees.

4 (a) General rule.--No individual while a member or employee
5 of the commission shall:

6 (1) Hold another public office or be a candidate for
7 another public office.

8 (2) Hold office in a political party or political
9 committee.

10 (3) Actively participate in, contribute to or solicit
11 contributions for a political campaign, political party,
12 political committee or candidate.

13 (4) Publicly endorse a candidate.

14 (b) Exception.--Nothing in this section shall preclude a
15 member or employee of the commission from actively participating
16 in, contributing to or soliciting contributions for a candidate
17 for Federal office or elective office outside of this
18 Commonwealth.

19 § 1102.4. Powers and duties of commission.

20 In addition to other powers and duties prescribed by law, the
21 commission shall:

22 (1) Prescribe and publish rules and regulations to carry
23 out the provisions of this chapter, including regulations
24 controlling or defining the following:

25 (i) Calling of meetings.

26 (ii) Investigative responsibilities of commission
27 members and employees.

28 (iii) Written procedures to be utilized by the
29 commission's investigative management staff in planning
30 and supervising investigations and inquiries.

1 (iv) Dissemination of materials, including
2 dissemination to the Governor and members or committees
3 of the General Assembly.

4 (v) Appropriate use of commission property,
5 including vehicles.

6 (vi) Maintenance of confidentiality of information.

7 (vii) Other procedures and acts necessary for the
8 proper functioning of the commission.

9 (2) As a criminal justice agency, inquire into public
10 corruption and the activities of persons engaged in and
11 associated with public corruption. The commission shall make
12 a written report of every completed public corruption
13 investigation which may include recommendation for
14 legislative or administrative action. Except for those
15 reports provided to another law enforcement agency, if a
16 public corruption report is critical of a named individual
17 not indicted for a criminal offense, the named individual
18 shall be allowed to submit a response to the allegations
19 contained in the report which shall be made part of the
20 report.

21 (3) Hold hearings, take testimony, issue subpoenas and
22 require the attendance and testimony of witnesses and the
23 production of documentary evidence relative to any
24 investigation which the commission may conduct in accordance
25 with the powers given it. The subpoenas shall be signed by
26 the chairperson, the chief counsel and one other commissioner
27 and shall be served by a person authorized to serve subpoenas
28 under the laws of this Commonwealth.

29 (4) Refer criminal violations to a district attorney,
30 the Attorney General of Pennsylvania, the Attorney General of

1 the United States or a United States Attorney for
2 investigation or prosecution.

3 (5) During April of each calendar year, submit an annual
4 report on the status of public corruption in this
5 Commonwealth to a joint public hearing of the Judiciary
6 Committee of the Senate and the Judiciary Committee of the
7 House of Representatives. The commission shall submit other
8 public corruption reports and present the reports at public
9 hearings of the committees of the Senate and the House of
10 Representatives having oversight responsibilities or
11 appropriate legislative jurisdiction of the subject matter of
12 the reports. If a report is critical of a named individual
13 not indicted for a criminal offense, the named individual
14 shall be allowed to submit a response to the allegations
15 contained in the report which shall be made part of the
16 report.

17 (6) Prescribe forms for statements and reports required
18 to be filed by this chapter and furnish such forms to persons
19 required to file such statements and reports.

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

24 (8) Accept and file any information voluntarily supplied
25 that exceeds the requirements of this chapter.

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

1 interests or that any statement which has been filed fails to
2 conform with the requirements of section 1105 (relating to
3 statement of financial interests), then the commission shall
4 in writing notify the person. Such notice shall state in
5 detail the deficiency and the penalties for failure to file
6 or for filing a deficient statement of financial interests.

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

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

19 (12) Prepare and publish annual summaries of statements
20 and reports filed with the commission.

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

26 (14) Issue to any person upon such person's request or
27 to the appointing authority or employer of that person upon
28 the request of such appointing authority or employer an
29 opinion with respect to such person's duties under this
30 chapter. The commission shall, within 14 days, either issue

1 the opinion or advise the person who made the request whether
2 an opinion will be issued. A person who acts in good faith on
3 an opinion issued to that person by the commission shall not
4 be subject to criminal or civil penalties for so acting,
5 provided that the material facts are as stated in the opinion
6 request. The commission's opinions shall be public record and
7 may from time to time be published. The person requesting the
8 opinion may, however, require that the opinion shall contain
9 such deletions and changes as shall be necessary to protect
10 the identity of the persons involved.

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

29 (16) Initiate an inquiry under section 1108(a) (relating
30 to investigations of violations of this chapter by

1 commission) where a complaint has not been filed but where
2 there is a reasonable belief that a conflict may exist.

3 (17) Issue findings, reports and orders relating to
4 investigations initiated pursuant to section 1108 which set
5 forth the alleged violation, findings of fact and conclusions
6 of law. An order may include a referral for prosecution. Any
7 order resulting from a finding that a public official or
8 public employee has obtained a financial gain in violation of
9 this chapter may require the restitution plus interest of
10 that gain to the appropriate governmental body. The
11 commission or the Office of Attorney General shall have
12 standing to apply to the court to seek enforcement of an
13 order requiring such restitution. This restitution
14 requirement shall be in addition to any other penalties
15 provided for in this chapter.

16 (18) Prepare and publish special reports, educational
17 materials and technical studies to further the purposes of
18 this chapter.

19 (19) Transmit, free of charge, copies of each order,
20 advice and opinion which have become a matter of public
21 record quarterly to the law library of each county, one
22 public library in each county, the State Library, the State
23 Senate Library, each authority appointing commission members
24 under this chapter, the Pennsylvania Association of County
25 Commissioners, the Pennsylvania Association of Boroughs, the
26 Pennsylvania State Association of Township Supervisors, the
27 Pennsylvania State Association of Township Commissioners, the
28 Pennsylvania School Boards Association and the Pennsylvania
29 League of Cities.

30 (20) Hold at least two public hearings each year, of

1 which at least one shall be held in Harrisburg and at least
2 one shall be held in a location other than Harrisburg, to
3 seek input from persons and organizations that represent any
4 individual subject to the provisions of this chapter and from
5 other interested parties.

6 (21) Call upon the department heads of State government
7 and State agencies through its chairperson for information
8 and assistance as needed to carry out the functions of the
9 commission.

10 (22) Account to the Governor, the Auditor General and
11 the General Assembly at the end of each fiscal year for
12 moneys received and disbursed.

13 (23) Appoint and fix the compensation of an executive
14 director and a chief counsel. The executive director shall be
15 responsible for the administrative operations of the
16 commission and shall perform other duties as may be delegated
17 or assigned by the commission, except that the commission
18 shall not delegate the making of regulations to the executive
19 director. The chief counsel shall be the chief legal officer
20 of the commission. The commission may obtain the services of
21 experts and consultants as necessary to carry out its duties
22 pursuant to this chapter.

23 (24) Appoint and fix the compensation of other employees
24 as the commission may find necessary for the proper
25 performance of the functions of the commission. The
26 commission shall designate which investigative employees of
27 the commission shall be law enforcement officers as provided
28 in section 1102.5 (relating to authority, qualification,
29 training and identification of investigative employees
30 designated as law enforcement officers). Other employees of

1 the commission shall be civilians.

2 (25) Pay expenses incurred by the executive director,
3 chief counsel or other employees on the presentation of
4 itemized vouchers and approval by the commission.

5 (26) Perform other acts necessary for the proper
6 functioning of the commission.

7 § 1102.5. Authority, qualification, training and identification
8 of investigative employees designated as law
9 enforcement officers.

10 (a) Authority.--An investigative employee of the commission
11 designated as a law enforcement officer shall have the law
12 enforcement power and authority, anywhere within this
13 Commonwealth, to enforce the following laws:

14 (1) This chapter.

15 (2) The act of July 10, 1968 (P.L.316, No.154), known as
16 the Legislative Code of Ethics.

17 (3) Crimes related to public office or public employment
18 as defined in section 2 of the act of July 8, 1978 (P.L.752,
19 No.140), known as the Public Employee Pension Forfeiture Act,
20 except Federal offenses.

21 (b) Qualifications.--An investigative employee shall be
22 qualified for appointment and designation as a law enforcement
23 officer if the employee:

24 (1) Has successfully completed a Federal or State law
25 enforcement training program determined by the Commissioner
26 of Pennsylvania State Police to be of sufficient scope and
27 duration to provide the participant with basic law
28 enforcement training.

29 (2) Has not been convicted of a felony or an offense
30 graded a serious misdemeanor, as defined by the act of

1 January 29, 2004 (P.L.4, No.2), known as the Confidence in
2 Law Enforcement Act.

3 (3) Has not been convicted of an offense in a
4 jurisdiction, state or country outside this Commonwealth in
5 accordance with the laws of that jurisdiction, state or
6 country and the offense is equivalent to an offense specified
7 in paragraph (2), regardless of its grading in that
8 jurisdiction, state or country.

9 (c) Continuing education.--With the assistance of the
10 Commissioner of Pennsylvania State Police, the commission shall
11 develop a program of ongoing law enforcement education for
12 investigative employees designated as law enforcement officers.

13 (d) Firearms.--

14 (1) The commission shall develop regulations and
15 procedures for the use and possession of firearms by
16 investigative employees designated as law enforcement
17 officers, including the type of firearms permitted and the
18 circumstances under which an investigative employee would be
19 permitted to possess or use a firearm.

20 (2) No commission investigative employee may possess or
21 use a firearm in the course of the employee's commission
22 duties unless he holds a current valid certification in the
23 use and handling of firearms under one of the following:

24 (i) 53 Pa.C.S. Ch. 21 Subch. D (relating to
25 municipal police education and training).

26 (ii) The act of February 9, 1984 (P.L.3, No.2),
27 known as the Deputy Sheriffs' Education and Training Act.

28 (iii) Another firearms program determined by the
29 Commissioner of Pennsylvania State Police to be of
30 sufficient scope and duration as to provide the

1 participant with basic training in the use and handling
2 of firearms.

3 (e) Badge.--Every investigative employee of the commission
4 designated as a law enforcement officer shall possess a metallic
5 badge with the words "Public Integrity Commission Officer"
6 inscribed on it.

7 § 1102.6. Photo identification.

8 Regardless of whether or not they have been designated law
9 enforcement officers, individuals appointed as investigative
10 employees of the commission shall have photo identification
11 cards issued by the commission containing the following:

12 (1) A photo of the individual taken within the previous
13 24 months.

14 (2) The name of the individual.

15 (3) The signature of the individual.

16 (4) The words "Public Integrity Commission."

17 (5) The date of issuance of the photo identification
18 card.

19 § 1102.7. Immunity of witnesses.

20 (a) General rule.--Notwithstanding 42 Pa.C.S. § 5947
21 (relating to immunity of witnesses), immunity orders shall be
22 available under this section in proceedings before the
23 commission involving an investigation into public corruption.

24 (b) Request and issuance.--The commission may request an
25 immunity order from a judge of the court and that judge shall
26 issue the order when in the judgment of the commission the
27 following criteria are satisfied:

28 (1) The testimony or other information from a witness
29 may be necessary to the public interest.

30 (2) A witness has refused or is likely to refuse to

1 testify or provide other information on the basis of using
2 the privilege against self-incrimination.

3 (c) Order to testify.--Whenever a witness refuses to testify
4 or provide other information in a proceeding specified in
5 subsection (a) on the basis of the privilege against self-
6 incrimination and the person presiding at the proceeding
7 communicates to the witness an immunity order, the witness shall
8 not refuse to testify based on his privilege against self-
9 incrimination.

10 (d) Limitation on use.--No testimony or other information
11 compelled under an immunity order or information directly or
12 indirectly derived from the testimony or other information shall
13 be used against a witness in a criminal case except the
14 information may be used:

15 (1) in a prosecution under 18 Pa.C.S. § 4902 (relating
16 to perjury) or 4903 (relating to false swearing);

17 (2) in a contempt proceeding for failure to comply with
18 an immunity order; or

19 (3) as evidence in a proceeding where the witness is not
20 a criminal defendant where otherwise admissible.

21 (e) Civil contempt.--Persons failing to comply with an
22 immunity order may be adjudged in civil contempt and committed
23 to the county jail until complying with the order, provided that
24 the proceeding or the investigation or report involving a
25 proceeding where the refusal to comply with an immunity order
26 has been completed. Persons may purge themselves of contempt by
27 complying with the order before the commission notwithstanding
28 the completion of the investigation or report.

29 (f) Criminal contempt.--In addition to civil contempt as
30 provided in subsection (e), a person who fails to comply with an

1 immunity order shall be guilty of criminal contempt and upon
2 conviction be sentenced to pay a fine of not more than \$5,000 or
3 to imprisonment for not more than one year, or both.

4 (g) Notice, consultation and opportunity to object.--Prior
5 to seeking an immunity order, the commission shall require its
6 chief counsel to consult with the district attorney of an
7 affected county, the Attorney General and the United States
8 Attorney of an affected district in order to prevent
9 interference with an ongoing investigation. The results of the
10 consultation shall be reported to the commission before an
11 immunity order is sought under this section. The commission
12 shall give notice to a district attorney of an affected county,
13 the Attorney General or the United States Attorney of an
14 affected district of a request for an immunity order to be
15 submitted to a judge of the court. The foregoing officers may
16 appear as a party and request a reasonable delay or denial of
17 the grant of immunity if an immediate grant would jeopardize an
18 investigation or prosecution. In a proceeding under this
19 section, the judge may delay or deny the request for immunity if
20 the judge determines, in the exercise of judicial discretion,
21 that an immunity order will jeopardize an actual or pending
22 investigation or prosecution.

23 § 1102.8. Enforcement of subpoenas.

24 (a) Application.--Upon the failure of a person subpoenaed
25 under section 1102.4(3) (relating to powers and duties of
26 commission) to obey the command of the subpoena or to be sworn
27 or affirmed or to testify, an application may be made to the
28 court for the enforcement of the subpoena.

29 (b) Contempt.--If a person who has been ordered by the court
30 to comply with a subpoena issued under section 1102.4(3) fails

1 to obey the command of the order, an application may be made to
2 the court for the person to be brought before the court
3 authorized to proceed against the person for civil contempt of
4 court.

5 Section 4. Sections 1103 and 1104 of Title 65 are amended to
6 read:

7 § 1103. Restricted activities.

8 (a) Conflict of interest.--No public official or public
9 employee shall engage in conduct that constitutes a conflict of
10 interest.

11 (b) Seeking improper influence.--No person shall offer or
12 give to a public official, public employee or nominee or
13 candidate for public office or a member of his or her immediate
14 family or a business with which [he] the public official, public
15 employee or nominee or candidate for public office is associated
16 anything of monetary value, including a gift, loan, political
17 contribution, reward or promise of future employment based on
18 the offeror's or donor's understanding that the vote, official
19 action or judgment of the public official or public employee or
20 nominee or candidate for public office would be influenced
21 thereby.

22 (c) Accepting improper influence.--No public official,
23 public employee or nominee or candidate for public office shall
24 solicit or accept anything of monetary value, including a gift,
25 loan, political contribution, reward or promise of future
26 employment, based on any understanding of [that] the public
27 official, public employee or nominee that the vote, official
28 action or judgment of the public official or public employee or
29 nominee or candidate for public office would be influenced
30 thereby.

1 (d) Honorarium.--No public official or public employee shall
2 accept an honorarium.

3 (e) Contingent and severance payments.--

4 (1) No person shall solicit or accept a severance
5 payment or anything of monetary value contingent upon the
6 assumption or acceptance of public office or employment.

7 (2) This subsection shall not prohibit:

8 (i) Payments received pursuant to an employment
9 agreement in existence prior to the time a person becomes
10 a candidate or is notified by a member of a transition
11 team, a search committee or a person with appointive
12 power that [he] the person is under consideration for
13 public office or makes application for public employment.

14 (ii) Receipt of a salary, fees, severance payment or
15 proceeds resulting from the sale of a person's interest
16 in a corporation, professional corporation, partnership
17 or other entity resulting from termination or withdrawal
18 therefrom upon the assumption or acceptance of public
19 office or employment.

20 (3) Payments made or received pursuant to paragraph (2)
21 (i) and (ii) shall not be based on the agreement, written or
22 otherwise, that the vote or official action of the
23 prospective public official or employee would be influenced
24 thereby.

25 (f) Contract.--No public official or public employee or
26 [his] spouse or child of the public official or public employee
27 or any business in which the person [or his], spouse or child is
28 associated shall enter into any contract valued at \$500 or more
29 with the governmental body with which the public official or
30 public employee is associated or any subcontract valued at \$500

1 or more with any person who has been awarded a contract with the
2 governmental body with which the public official or public
3 employee is associated unless the contract has been awarded
4 through an open and public process, including prior public
5 notice and subsequent public disclosure of all proposals
6 considered and contracts awarded. In such a case, the public
7 official or public employee shall not have any supervisory or
8 overall responsibility for the implementation or administration
9 of the contract. Any contract or subcontract made in violation
10 of this subsection shall be voidable by a court of competent
11 jurisdiction if the suit is commenced within 90 days of the
12 making of the contract or subcontract.

13 (g) Former official or employee.--No former public official
14 or public employee shall represent a person, with promised or
15 actual compensation, on any matter before the governmental body
16 with which [he] the former public official or public employee
17 has been associated for one year after [he] the former public
18 official or public employee leaves that body.

19 (h) Misuse of statement of financial interest.--No person
20 shall use for any commercial purpose information copied from
21 statements of financial interests required by this chapter or
22 from lists compiled from such statements.

23 (i) Former executive-level employee.--No former executive-
24 level State employee may for a period of two years from the time
25 that [he] the executive-level State employee terminates
26 employment with this Commonwealth be employed by, receive
27 compensation from, assist or act in a representative capacity
28 for a business or corporation that [he] the former executive-
29 level State employee actively participated in recruiting to this
30 Commonwealth or that [he] the former executive-level State

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

9 (j) Voting conflict.--

10 (1) Where voting conflicts are not otherwise addressed
11 by the Constitution of Pennsylvania or by any law, rule,
12 regulation, order or ordinance, the [following] procedure in
13 this subsection shall be employed.

14 (2) Any public official or public employee who in the
15 discharge of [his] official duties would be required to vote
16 on a matter that would result in a conflict of interest shall
17 abstain from voting and, prior to the vote being taken,
18 publicly announce and disclose the nature of [his] the
19 interest as a public record in a written memorandum filed
20 with the person responsible for recording the minutes of the
21 meeting at which the vote is taken, provided that whenever a
22 governing body would be unable to take any action on a matter
23 before it because the number of members of the body required
24 to abstain from voting under the provisions of this section
25 makes the majority or other legally required vote of approval
26 unattainable, then such members shall be permitted to vote if
27 disclosures are made as otherwise provided herein.

28 (3) In the case of a three-member governing body of a
29 political subdivision, where one member has abstained from
30 voting as a result of a conflict of interest and the

1 remaining two members of the governing body have cast
2 opposing votes, the member who has abstained shall be
3 permitted to vote to break the tie vote if disclosure is made
4 as otherwise provided herein.

5 § 1104. Statement of financial interests required to be filed.

6 (a) Public official or public employee.--Each public
7 official of the Commonwealth shall file a statement of financial
8 interests for the preceding calendar year with the commission no
9 later than May 1 of each year that [he] the public official
10 holds such a position and of the year after [he leaves such a]
11 leaving the position. Each public employee and public official
12 of the Commonwealth shall file a statement of financial
13 interests for the preceding calendar year with the department,
14 agency, body or bureau [in which he] where the public employee
15 is employed or to which [he] the public official is appointed or
16 elected no later than May 1 of each year that [he holds such a
17 position] the position is held by the public official or public
18 employee and of the year after [he leaves such a] leaving the
19 position. Any other public employee or public official shall
20 file a statement of financial interests with the governing
21 authority of the political subdivision [by which he is] where
22 employed [or within which he is], appointed or elected no later
23 than May 1 of each year [that he holds such a] when holding the
24 position and of the year after [he leaves such a] leaving the
25 position. Persons who are full-time or part-time solicitors for
26 political subdivisions are required to file under this section.

27 (b) Candidate.--

28 (1) Any candidate for a State-level public office shall
29 file a statement of financial interests for the preceding
30 calendar year with the commission on or before the last day

1 for filing a petition to appear on the ballot for election. A
2 copy of the statement of financial interests shall also be
3 appended to such petition.

4 (2) Any candidate for county-level or local office shall
5 file a statement of financial interests for the preceding
6 calendar year with the governing authority of the political
7 subdivision in which [he is a candidate] the candidate is
8 running on or before the last day for filing a petition to
9 appear on the ballot for election. A copy of the statement of
10 financial interests shall also be appended to such petition.

11 (3) No petition to appear on the ballot for election
12 shall be accepted by the respective State or local election
13 officials unless the petition has appended thereto a
14 statement of financial interests as set forth in paragraphs
15 (1) and (2). Failure to file the statement in accordance with
16 the provisions of this chapter shall, in addition to any
17 other penalties provided, be a fatal defect to a petition to
18 appear on the ballot.

19 (c) Nominee.--

20 (1) Each State-level nominee for public office shall
21 file a statement of financial interests for the preceding
22 calendar year with the commission and with the official or
23 body that is vested with the power of confirmation at least
24 ten days before the official or body [shall approve or
25 reject] approves or rejects the nomination.

26 (2) Each nominee for a county-level or local office
27 shall file a statement of financial interests for the
28 preceding calendar year with the governing authority of the
29 political subdivision in which he or she is a nominee and, if
30 different, with the official or body that is vested with the

1 power of confirmation at least ten days before the official
2 or body [shall approve or reject] approves or rejects the
3 nomination.

4 (d) Failure to file required statement.--No public official
5 shall be allowed to take the oath of office or enter or continue
6 upon [his duties] the duties of the office, nor shall [he] the
7 public official receive compensation from public funds, unless
8 [he] the public official has filed a statement of financial
9 interests as required by this chapter.

10 (e) Public inspection and copying.--All statements of
11 financial interests filed pursuant to the provisions of this
12 chapter shall be made available for public inspection and
13 copying during regular office hours, and copying facilities
14 shall be made available at a charge not to exceed actual cost.

15 Section 5. Sections 1106 and 1107 of Title 65 are repealed:
16 [§ 1106. State Ethics Commission.

17 (a) Continuation of commission.--The State Ethics Commission
18 established under the act of October 4, 1978 (P.L.883, No.170),
19 referred to as the Public Official and Employee Ethics Law, is
20 continued and shall be composed of seven members. The President
21 pro tempore of the Senate, the Minority Leader of the Senate,
22 the Speaker of the House and the Minority Leader of the House
23 shall each appoint one member. Three members shall be appointed
24 by the Governor without confirmation. No more than two of the
25 members appointed by the Governor shall be of the same political
26 party. No appointee shall have served as an officer in a
27 political party for one year prior to his appointment.

28 (b) Term of service.--Members of the commission shall serve
29 for terms of three years, except that members shall continue to
30 serve until their successors are appointed and qualified.

1 (c) Maximum number of terms.--No member shall be appointed
2 to more than two full three-year terms on the commission.

3 (d) Prohibited activities.--No individual while a member or
4 employee of the commission shall:

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

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

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

10 (4) directly or indirectly attempt to influence any
11 decision by a governmental body other than a court of law or
12 as a representative of the commission on a matter within the
13 jurisdiction of the commission; or

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

17 (e) Vacancy.--A majority of the commission by resolution
18 shall declare vacant the position on the commission of any
19 member who takes part in activities prohibited by subsection

20 (d). An individual appointed to fill a vacancy occurring other
21 than by the expiration of a term of office shall be appointed
22 for the unexpired term of the member he succeeds and is eligible
23 for appointment to two full three-year terms thereafter. Any
24 vacancy occurring on the commission shall be filled within 30
25 days in the manner in which that position was originally filled.

26 (f) Election of chairman and vice chairman.--The commission
27 shall elect a chairman and a vice chairman. The vice chairman
28 shall act as chairman in the absence of the chairman or in the
29 event of a vacancy in that position.

30 (g) Quorum.--Four members of the commission shall constitute

1 a quorum, and, except as provided in section 1108(g) (relating
2 to investigations by commission), the votes of a majority of the
3 members present are required for any action or recommendation of
4 the commission. The chairman or any four members of the
5 commission may call a meeting provided that advance written
6 notice is mailed to each member and to any person who requests
7 notice of such meetings.

8 (h) Compensation.--Members of the commission shall be
9 compensated at a rate of \$250 per day and shall receive
10 reimbursement for their actual and necessary expenses while
11 performing the business of the commission.

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

26 (j) Regulations.--The commission shall develop regulations
27 that provide for a code of conduct to govern the activities and
28 ethical standards of its members, which code shall subject the
29 members of the commission to no less than is required for public
30 officials or public employees under this chapter.

1 § 1107. Powers and duties of commission.

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

4 (1) Prescribe and publish rules and regulations to carry
5 out the provisions of this chapter.

6 (2) Prescribe forms for statements and reports required
7 to be filed by this chapter and furnish such forms to persons
8 required to file such statements and reports.

9 (3) Prepare and publish guidelines setting forth
10 recommended uniform methods of accounting and reporting for
11 use by persons required to file statements and reports by
12 this chapter.

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

15 (5) Inspect statements of financial interests which have
16 been filed in order to ascertain whether any reporting person
17 has failed to file such a statement or has filed a deficient
18 statement. If, upon inspection, it is determined that a
19 reporting person has failed to file a statement of financial
20 interests or that any statement which has been filed fails to
21 conform with the requirements of section 1105 (relating to
22 statement of financial interests), then the commission shall
23 in writing notify the person. Such notice shall state in
24 detail the deficiency and the penalties for failure to file
25 or for filing a deficient statement of financial interests.

26 (6) Provide that statements and reports filed with the
27 commission be made available for public inspection and
28 copying during regular office hours and provide that copying
29 facilities be made available at a charge not to exceed actual
30 cost and advise other State and local agencies of the

1 provisions of this paragraph.

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

8 (8) Prepare and publish annual summaries of statements
9 and reports filed with the commission.

10 (9) Preserve statements and reports filed with the
11 commission for a period of five years from date of receipt
12 and advise other State and local agencies which receive and
13 store financial interest statements to preserve such
14 statements for a period of five years from date of receipt.

15 (10) Issue to any person upon such person's request or
16 to the appointing authority or employer of that person upon
17 the request of such appointing authority or employer an
18 opinion with respect to such person's duties under this
19 chapter. The commission shall, within 14 days, either issue
20 the opinion or advise the person who made the request whether
21 an opinion will be issued. No person who acts in good faith
22 on an opinion issued to him by the commission shall be
23 subject to criminal or civil penalties for so acting,
24 provided that the material facts are as stated in the opinion
25 request. The commission's opinions shall be public records
26 and may from time to time be published. The person requesting
27 the opinion may, however, require that the opinion shall
28 contain such deletions and changes as shall be necessary to
29 protect the identity of the persons involved.

30 (11) Provide written advice to any person or the

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

18 (12) Initiate an inquiry pursuant to section 1108(a)
19 (relating to investigations by commission) where a complaint
20 has not been filed but where there is a reasonable belief
21 that a conflict may exist.

22 (13) Issue findings, reports and orders relating to
23 investigations initiated pursuant to section 1108 which set
24 forth the alleged violation, findings of fact and conclusions
25 of law. An order may include recommendations to law
26 enforcement officials. Any order resulting from a finding
27 that a public official or public employee has obtained a
28 financial gain in violation of this chapter may require the
29 restitution plus interest of that gain to the appropriate
30 governmental body. The commission or the Office of Attorney

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

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

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

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

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

15 (18) Transmit, free of charge, copies of each order,
16 advice and opinion which has become a matter of public record
17 quarterly to the law library of each county, one public
18 library in each county, the State Library, the State Senate
19 Library, each authority appointing commission members under
20 this chapter, the Pennsylvania Association of County
21 Commissioners, the Pennsylvania Association of Boroughs, the
22 Pennsylvania State Association of Township Supervisors, the
23 Pennsylvania State Association of Township Commissioners, the
24 Pennsylvania School Boards Association and the Pennsylvania
25 League of Cities.

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

1 other interested parties.]

2 Section 6. Sections 1108 and 1109(c) and (f) of Title 65 are
3 amended to read:

4 § 1108. Investigations of violations of this chapter by
5 commission.

6 (a) Preliminary inquiry.--Upon a complaint signed under
7 penalty of perjury by any person or upon its own motion, the
8 commission[, through its executive director,] shall conduct a
9 preliminary inquiry into any alleged violation of [this
10 chapter.] section 1103 (relating to restricted activities), 1104
11 (relating to statement of financial interests required to be
12 filed), 1105(a) (relating to statement of financial interests)
13 or this section. The commission shall keep information, records
14 and proceedings relating to a preliminary inquiry confidential.
15 The commission shall, however, have the authority to refer the
16 case [to law enforcement officials] for prosecution during a
17 preliminary inquiry or anytime thereafter without providing
18 notice to the subject of the inquiry. The commission shall
19 complete its preliminary inquiry within 60 days of its
20 initiation.

21 (b) Termination of preliminary inquiry.--If a preliminary
22 inquiry fails to establish reason to believe that [this chapter
23 has] section 1103, 1104, 1105(a) or this section has been
24 violated, the commission shall terminate the inquiry and so
25 notify the complainant and the person who had been the subject
26 of the inquiry. If the commission determines that a complaint is
27 frivolous, it shall so state.

28 (c) Initiation of investigation.--If a preliminary inquiry
29 establishes reason to believe that [this chapter has] section
30 1103, 1104, 1105(a) or this section has been violated, the

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

27 (d) Termination of investigation.--If an investigation
28 conducted under this [chapter] section indicates that no
29 violation has been committed, the commission shall immediately
30 terminate the investigation and send written notice of such

determination to the complainant and the person who was the subject of the investigation.

(e) Findings report.--The commission, upon the completion of an investigation under this section, shall issue a findings report to the subject of the investigation setting forth the pertinent findings of fact. The subject shall have the right to respond to said findings and to request an evidentiary hearing on said matter. The commission shall grant any request for a hearing. Said hearing shall be held in Harrisburg or, at the request of the subject, in either Philadelphia or Pittsburgh. Any response to the findings report must either admit or deny by corresponding number and letter the pertinent facts set forth. The subject of the investigation shall have access to any evidence intended to be used by the commission at the hearing and any exculpatory evidence developed by the commission in the course of its investigation. Matters not specifically denied in the response shall be deemed admitted. The response must be filed within 30 days of the issuance of the findings report unless the time period is extended by the commission for good cause shown. Hearings conducted upon request shall be instituted within 45 days after the filing of the response.

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

(g) Procedure for hearing.--Hearings conducted pursuant to

1 this section concerning an allegation that section 1103, 1104,
2 1105(a) or this section has been violated shall be closed to the
3 public unless the subject requests an open hearing. Any person
4 who appears before the commission shall have all of the due
5 process rights, privileges and responsibilities of a party or
6 witness appearing before an administrative agency of this
7 Commonwealth. All witnesses summoned for such hearings shall
8 receive reimbursement for reasonable expenses in accordance with
9 42 Pa.C.S. § 5903 (relating to compensation and expenses of
10 witnesses). At the conclusion of a hearing concerning an alleged
11 violation and in a timely manner, the commission shall
12 deliberate on the evidence and determine whether there has been
13 a violation of [this chapter] section 1103, 1104, 1105(a) or
14 this section. At least four members of the commission present at
15 a meeting must find a violation by clear and convincing proof.
16 The names of the members finding a violation and the names of
17 those dissenting and abstaining shall be listed in the order.
18 The determination of the commission, in the form of a final
19 order and findings of fact, shall be a matter of public record.

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

25 (i) Appeal.--Any person aggrieved by an opinion or order
26 which becomes final in accordance with the provisions of this
27 [chapter] section who has direct interest in such opinion or
28 order shall have the right to appeal therefrom in accordance
29 with law and general rules.

30 (j) Retaliation prohibited.--No public official or public

1 employee shall discharge any official or employee or change his
2 official rank, grade or compensation or deny him a promotion or
3 threaten to do so for filing a complaint with or providing
4 information to the commission or testifying in any commission
5 proceeding. No member of the commission and no employee of the
6 commission shall discharge any employee of the commission or
7 change his official rank, grade or compensation or threaten to
8 do so for providing any information about the internal
9 operations of the commission, not required by law to be kept
10 secret, to any legislator or legislative staff member or
11 testifying in any legislative proceeding.

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

19 (1) final orders of the commission as provided in
20 subsection (h);

21 (2) hearings conducted in public pursuant to subsection
22 (g);

23 (3) for the purpose of seeking advice of legal counsel;

24 (4) filing an appeal from a commission order;

25 (5) communicating with the commission or its staff, in
26 the course of a preliminary inquiry, investigation, hearing
27 or petition for reconsideration by the commission;

28 (6) consulting with a law enforcement official or agency
29 for the purpose of initiating, participating in or responding
30 to an investigation or prosecution by the law enforcement

1 official or agency;

2 (7) testifying under oath before a governmental body or
3 a similar body of the United States of America;

4 (8) any information, records or proceedings relating to
5 a complaint, preliminary inquiry, investigation, hearing or
6 petition for reconsideration which the person is the subject
7 of; or

8 (9) such other exceptions as the commission by
9 regulation may direct.

10 (1) Frivolous complaints and wrongful disclosure.--If a
11 public official or public employee has reason to believe the
12 complaint for a violation of section 1103, 1104, 1105(a) or this
13 section is frivolous as defined by this chapter, or without
14 probable cause and made primarily for a purpose other than that
15 of reporting a violation of this chapter, or a person publicly
16 disclosed or caused to be disclosed that a complaint against the
17 public official or public employee has been filed with the
18 commission, the public official or public employee shall notify
19 the commission and the commission, through its executive
20 director, shall conduct an investigation.

21 (m) Limitation of time.--The commission may conduct an
22 investigation under this section within five years after the
23 alleged occurrence of any violation of this chapter.

24 § 1109. Penalties.

25 * * *

26 (c) Treble damages.--Any person who obtains financial gain
27 from violating any provision of [this chapter] section 1103
28 (relating to restricted activities), 1104 (relating to statement
29 of financial interests required to be filed), 1105(a) (relating
30 to statement of financial interests) or 1108 (relating to

1 investigations of violations of this chapter by commission), in
2 addition to any other penalty provided by law, shall pay a sum
3 of money equal to three times the amount of the financial gain
4 resulting from such violation into the State Treasury or the
5 treasury of the political subdivision. Treble damages shall not
6 be assessed against a person who acted in good faith reliance on
7 the advice of legal counsel.

8 * * *

9 (f) Civil penalty.--In addition to any other civil remedy or
10 criminal penalty provided for in this chapter, the commission
11 may, after notice has been served in accordance with section
12 [1107(5)] 1102.4(9) (relating to powers and duties of
13 commission) and upon a majority vote of its members, levy a
14 civil penalty upon any person subject to this chapter who fails
15 to file a statement of financial interests in a timely manner or
16 who files a deficient statement of financial interests, at a
17 rate of not more than \$25 for each day such statement remains
18 delinquent or deficient. The maximum penalty payable under this
19 paragraph is \$250.

20 * * *

21 Section 7. Title 65 is amended by adding a section to read:
22 § 1109.1. Costs, restitution and forfeiture.

23 The commission shall be entitled to an equitable share, as
24 determined by the court, of:

25 (1) Assets seized or forfeited as a result, in whole or
26 part, of an investigation by the commission.

27 (2) Award of costs of prosecution or other fees or costs
28 awarded as a result of a conviction for any criminal offense
29 based, in whole or part, on an investigation by the
30 commission.

1 Section 8. Section 1110 of Title 65 is amended to read:

2 § 1110. Wrongful use of chapter.

3 (a) Liability.--A person who signs a complaint alleging a
4 violation of [this chapter] section 1103 (relating to restricted
5 activities), 1104 (relating to statement of financial interests
6 required to be filed), 1105(a) (relating to statement of
7 financial interests) or 1108 (relating to investigations of
8 violations of this chapter by commission) against another is
9 subject to liability for wrongful use of this chapter if:

10 (1) the complaint was frivolous, as defined by this
11 chapter, or without probable cause and made primarily for a
12 purpose other than that of reporting a violation of this
13 chapter; or

14 (2) he publicly disclosed or caused to be disclosed that
15 a complaint against a person had been filed with the
16 commission.

17 (b) Probable cause.--A person who signs a complaint alleging
18 a violation of [this chapter] section 1103, 1104, 1105(a) or
19 1108 has probable cause for doing so if he reasonably believes
20 in the existence of the facts upon which the claim is based and
21 either:

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

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

28 (c) Commission procedures.--When the commission determines
29 that a complainant has violated the provisions set forth in
30 subsection (a), the commission, upon receiving a written request

1 from the subject of the complaint, shall provide the name and
2 address of the complainant to said subject. If the commission
3 determines that a complainant has not violated the provisions of
4 subsection (a), the commission shall notify the subject
5 accordingly. The subject shall have the right to appeal the
6 commission's determination, and the commission shall schedule an
7 appeal hearing. The subject shall show cause why the complainant
8 violated the provisions of this section. If the commission
9 grants the appeal, the commission shall immediately release the
10 complainant's name and address to the subject. If the commission
11 denies the appeal, it shall present evidence why the
12 complainant's name and address shall not be released.

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

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

18 (2) The expenses, including any reasonable attorney
19 fees, that he has reasonably incurred in proceedings before
20 the commission.

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

23 (4) Any emotional distress that has been caused by the
24 proceedings.

25 (5) Any punitive damages according to law in appropriate
26 cases.

27 Section 9. Title 65 is amended by adding sections to read:

28 § 1110.1. Disclosure of executive session testimony and
29 investigative records.

30 No testimony taken in executive session, a part thereof, or a

1 summary thereof and no investigative record, a part thereof, or
2 a summary thereof, may be released or disclosed to a person
3 either orally or in writing by a commissioner or employee of the
4 commission without the authorization of the commission.

5 § 1110.2. Privileged statements and reports.

6 A statement or disclosure of information made by a
7 commissioner or an employee of the commission during the course
8 of a hearing or official proceeding and a report issued by the
9 commission before the General Assembly or to another law
10 enforcement agency shall be absolutely privileged. The privilege
11 shall be an absolute defense to an action for invasion of
12 privacy, defamation or other civil or criminal action.

13 § 1110.3. Commission disclosure of economic interests.

14 (a) Disclosure statement.--As of the date of appointment to
15 the commission and on or before March 15 of each following year,
16 each commissioner shall file with the Governor, the Secretary of
17 the Senate and the Chief Clerk of the House of Representatives
18 for the preceding calendar year a sworn statement of economic
19 interests. The economic interests statement shall contain the
20 information required under subsection (e). Once the economic
21 interests statement has been filed under this chapter, the
22 statement shall be updated annually by filing a supplemental
23 statement. The economic interests of a spouse or child of a
24 commissioner who is under 18 years of age shall be deemed an
25 economic interest of a commissioner.

26 (b) Record.--The Governor, the Secretary of the Senate and
27 the Chief Clerk of the House of Representatives shall maintain
28 the economic interests statements filed by commissioners as
29 public records which shall be open for public examination and
30 copying, at cost, at all reasonable times. The economic

1 interests statements shall remain on file for five years from
2 the initial date of filing.

3 (c) Requirements.--The commission shall promulgate
4 regulations to be published in the Pennsylvania Bulletin
5 regarding economic disclosure requirements for employees of the
6 commission.

7 (d) Penalties.--In addition to other penalties imposed by
8 law for false swearing, neglect or refusal of a commissioner or
9 employee to file a complete and accurate economic interests
10 statement under the requirements of this section or the willful
11 filing of an inaccurate statement shall constitute misfeasance
12 in office in the case of commissioners and shall constitute
13 grounds for dismissal in the case of employees.

14 (e) Contents.--The sworn economic interests statement shall
15 contain:

16 (1) The identity of offices and directorships by name.

17 (2) An identifying description of real estate in this
18 Commonwealth in which the commissioner or a member of the
19 commissioner's household has an interest, direct or indirect,
20 including an option to buy, provided that a commissioner's
21 primary place of residence shall not be included.

22 (3) The name of each creditor to whom the commissioner
23 or a member of the commissioner's household owes money in
24 excess of \$6,500, the category of the amount owed and the
25 interest rate, provided that loans or credit extended between
26 members of the immediate family and a mortgage upon the
27 commissioner's primary place of residence shall not be
28 included.

29 (4) The name of each business, insurance policy or trust
30 in which the commissioner or a member of the commissioner's

1 household has a financial interest and the nature and
2 category of the amount of the interest.

3 (5) The source, by name, and category of the amounts of
4 income in excess of \$1,300, including capital gains, whether
5 or not taxable, received by the commissioner or a member of
6 the commissioner's household during the preceding year.

7 (6) A list of businesses with which a commissioner is
8 associated that do business with or are regulated by the
9 Commonwealth and a description of the nature of the business
10 or regulation.

11 (7) A salary, fee, commission or other income, listed in
12 dollar amount or value, received by a commissioner from a
13 political subdivision of this Commonwealth or an agency of
14 the Commonwealth, other than the commission, including the
15 name of the political subdivision or agency or from an entity
16 which maintains a person required to be registered as a
17 lobbyist under any law requiring the registration.

18 (f) Amounts.--Where an amount is required to be reported by
19 category, the individual shall report whether the amount is less
20 than \$5,000, at least \$5,000 but less than \$10,000, at least
21 \$10,000 but less than \$25,000 or \$25,000 or more. An amount of
22 stock may be reported by number of shares instead of by category
23 of dollar value.

24 (g) Additional disclosure.--No provision of this chapter
25 shall be interpreted to prevent a person from filing more
26 information or more detailed information than required on an
27 economic interests statement.

28 § 1111.1. Applicable statutes.

29 The provisions of Chapters 7 (relating to open meetings) and
30 11 (relating to ethics standards and financial disclosure) shall

- 1 apply to the commission except as otherwise provided in this
- 2 chapter.
- 3 Section 10. This act shall take effect in 60 days.