

## Veto No. 1988-6

HB 1733

December 16, 1988

To the Honorable, the House of Representatives  
of the Commonwealth of Pennsylvania:

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of House Bill 1733, Printer's No.3950, entitled "An act reenacting and amending the act of October 4, 1978 (P.L.883, No.170), entitled 'An act relating to conflicts of interest involving certain public officials serving in State or State agencies and local political subdivision positions and prohibiting certain public employees from engaging in certain conflict of interest activities requiring certain disclosures and providing penalties,' adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; making an appropriation; and making a repeal."

House Bill 1733 would re-authorize the State Ethics Commission for another four years pursuant to the Sunset Act of 1981. In addition, the bill contains substantial revisions of existing ethical standards and creates new procedural requirements applicable to Commission investigations and hearings. These latter requirements include notice to the subject of an ethics complaint, opportunity to be heard, access to evidence and other due process protections commonly available in administrative agency proceedings. I believe these due process provisions are entirely appropriate given the nature of Ethics Commission investigations and the potential consequences of a decision adverse to the subject of a complaint.

There are a number of other provisions in House Bill 1733 which clearly are in the public interest. In particular, the power given to the Ethics Commission to order restitution of improper financial gain and the protection given to "whistle-blowers" address significant gaps in current law.

Unfortunately, in other important respects, this bill would seriously weaken the ethical standards that now apply to public officials at the State and local levels of government. For example, current law requires that public officials and employees and candidates for public office file reports identifying their financial interests and sources of income. These reports must include any gifts received in amounts of \$200 or more from persons other than family members. House Bill 1733 would exempt from public disclosure a large portion of what current law requires to be listed. Only gifts over \$500 would have to be disclosed and then only if they fail to meet one of several broad exceptions. For example, if the public official gave anything in return for the gift, no matter how insignificant by comparison with the value of the gift he received, no disclosure would be required. If someone paid the travel and accommodation expenses of a public official, when the expenses could have qualified for government reimbursement, no reporting would be required.

With regard to conflicts of interest, House Bill 1733 again creates several broad exceptions to the basic prohibition against conflicts. On the one hand, the bill prohibits public officials and employees from using their government positions for personal financial gain. On the other hand, the bill specifically authorizes legislators to be paid for obtaining State grants and contracts for their constituents. Secondly, State law currently prohibits legislators from participating as a principal in any transaction which will allow them to benefit from State grants and contracts. House Bill 1733 repeals this provision and allows all public officials to negotiate for the receipt of public benefits unless it can be proven that they used the authority of their office in some way to obtain those benefits.

The provisions mentioned above, taken together with blanket exemptions from the conflict of interest prohibitions for officials who appear before government agencies and for the personnel and hiring practices of public officials, would establish new, weaker standards for the conduct of government employees in Pennsylvania. In addition, the bill would apply those new standards retroactively, thereby affecting the legality or propriety of conduct after its occurrence, and could prevent municipalities from imposing more stringent standards on their own local officials.

I believe enactment of House Bill 1733 would seriously erode public confidence in government officials. What is needed is an ethics bill which merits the respect of the people of Pennsylvania and, at the same time, provides clear guidelines to government employees who honestly desire to conform their conduct to the requirements of the law.

An unfortunate, but unavoidable, consequence of my veto of House Bill 1733 is that the Ethics Commission must begin winding down its operations. This action does not mean that there will be an ethical void in Pennsylvania until further action by the General Assembly. On the contrary, this veto preserves the stronger ethical standards that are now in effect under current law and those stronger standards can still be enforced by the Attorney General while the General Assembly develops new legislation.

I urge the General Assembly promptly to enact new legislation to continue the Ethics Commission prior to its final termination, now scheduled for June 30, 1989.

ROBERT P. CASEY