

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 492 Session of 2015

INTRODUCED BY YUDICHAK, RAFFERTY, TEPLITZ, BREWSTER, FONTANA,
SCHWANK, WILLIAMS, SMITH, VULAKOVICH, COSTA AND FARNESE,
FEBRUARY 13, 2015

REFERRED TO STATE GOVERNMENT, FEBRUARY 13, 2015

AN ACT

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

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

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

25 § 1101. Short title of chapter.

26 This chapter shall be known and may be cited as the [Public

1 Official and Employee Ethics] Pennsylvania Public Integrity
2 Commission Act.

3 § 1101.1. Purpose.

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

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

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

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

30 (2) Establish a Pennsylvania Public Integrity Commission

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

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

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

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

1 investigating criminal incidents of public corruption. In order
2 to strengthen the faith and confidence of the people of this
3 Commonwealth in their government, the General Assembly further
4 declares that the people have a right to be assured that the
5 financial interests of holders of or nominees or candidates for
6 public office do not conflict with the public trust. Because
7 public confidence in government can best be sustained by
8 assuring the people of the impartiality and honesty of public
9 officials, this chapter shall be liberally construed to promote
10 complete financial disclosure as specified in this chapter.
11 Furthermore, it is recognized that clear guidelines are needed
12 in order to guide public officials and employees in their
13 actions. Thus, the General Assembly by this chapter intends to
14 define as clearly as possible those areas which represent
15 conflict with the public trust.

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

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

27 § 1102. Definitions.

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

1 "Advice." Any directive of the chief counsel of the [State
2 Ethics Commission] commission issued under section [1107(11)]
3 1102.4(15) (relating to powers and duties of commission) and
4 based exclusively on prior commission opinions, prior opinions
5 of the State Ethics Commission, this chapter, regulations
6 promulgated pursuant to this chapter and court opinions which
7 interpret this chapter.

8 * * *

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

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

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

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

30 The term shall include individuals nominated or elected as

1 write-in candidates unless they resign such nomination or
2 elected office within 30 days of having been nominated or
3 elected.

4 "Commission." The [State Ethics] Pennsylvania Public
5 Integrity Commission.

6 * * *

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

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

1 consideration of [his] the public official or public employee's
2 current public employment with the Commonwealth or a political
3 subdivision.

4 "Court." The Commonwealth Court.

5 * * *

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

11 * * *

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

16 * * *

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

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

27 * * *

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

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

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

7 * * *

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

9 § 1102.1. Establishment and operation of nominating committee.

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

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

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

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

30 (2) The Minority Leader of the Senate shall appoint two

1 members of the nominating committee. One appointee shall be a
2 current or former dean of a Pennsylvania law school
3 accredited by the American Bar Association. One appointee
4 shall be a member or employee of a nonprofit, nonpartisan
5 citizen's lobbying organization that has been in existence
6 for no fewer than 30 years.

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

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

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

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

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

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

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

30 (j) Procedure.--The following shall apply to a nominating

1 committee procedure:

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

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

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

12 § 1102.2. Commission.

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

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

27 (c) Composition.--The commissioners shall be appointed by
28 the Governor, subject to the consent of two-thirds of the
29 members elected to the Senate, from the list of current nominees
30 prepared by a nominating committee under section 1102.1

1 (relating to establishment and operation of nominating
2 committee). The commission shall not have more than three
3 commissioners of the same political party.

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

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

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

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

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

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

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

23 (g) Compensation and expenses.--A commissioner shall receive
24 \$100-a-day compensation for every meeting of the commission at
25 which the commissioner participates in person and a quorum of
26 the commission is present. A commissioner shall be entitled to
27 reasonable travel, hotel and other necessary expenses as
28 approved by the commission, but the expenses shall not exceed
29 the applicable per diem rates established by the United States
30 General Services Administration.

1 (h) Removal.--Except as authorized under this subsection, a
2 commissioner shall not be removed from office during his term. A
3 commissioner may be removed from office in the following
4 circumstances:

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

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

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

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

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

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

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

4 § 1102.3. Limitations on activities by commissioners and
5 employees.

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

8 (1) Hold another public office or be a candidate for
9 another public office.

10 (2) Hold office in a political party or political
11 committee.

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

15 (4) Publicly endorse a candidate.

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

21 § 1102.4. Powers and duties of commission.

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

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

27 (i) Calling of meetings.

28 (ii) Investigative responsibilities of commission
29 members and employees.

30 (iii) Written procedures to be utilized by the

1 commission's investigative management staff in planning
2 and supervising investigations and inquiries.

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

6 (v) Appropriate use of commission property,
7 including vehicles.

8 (vi) Maintenance of confidentiality of information.

9 (vii) Other procedures and acts necessary for the
10 proper functioning of the commission.

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

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

1 (4) Refer criminal violations to a district attorney,
2 the Attorney General of Pennsylvania, the Attorney General of
3 the United States or a United States Attorney for
4 investigation or prosecution.

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

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

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

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

28 (9) Inspect statements of financial interests which have
29 been filed in order to ascertain whether any reporting person
30 has failed to file such a statement or has filed a deficient

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

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

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

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

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

28 (14) Issue to any person upon such person's request or
29 to the appointing authority or employer of that person upon
30 the request of such appointing authority or employer an

1 opinion with respect to such person's duties under this
2 chapter. The commission shall, within 14 days, either issue
3 the opinion or advise the person who made the request whether
4 an opinion will be issued. A person who acts in good faith on
5 an opinion issued to that person by the commission shall not
6 be subject to criminal or civil penalties for so acting,
7 provided that the material facts are as stated in the opinion
8 request. The commission's opinions shall be public record and
9 may from time to time be published. The person requesting the
10 opinion may, however, require that the opinion shall contain
11 such deletions and changes as shall be necessary to protect
12 the identity of the persons involved.

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

1 (16) Initiate an inquiry under section 1108(a) (relating
2 to investigations of violations of this chapter by
3 commission) where a complaint has not been filed but where
4 there is a reasonable belief that a conflict may exist.

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

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

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

1 League of Cities.

2 (20) Hold at least two public hearings each year, of
3 which at least one shall be held in Harrisburg and at least
4 one shall be held in a location other than Harrisburg, to
5 seek input from persons and organizations that represent any
6 individual subject to the provisions of this chapter and from
7 other interested parties.

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

12 (22) Account to the Governor, the Auditor General and
13 the General Assembly at the end of each fiscal year for money
14 received and disbursed.

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

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

1 training and identification of investigative employees
2 designated as law enforcement officers). Other employees of
3 the commission shall be civilians.

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

7 (26) Perform other acts necessary for the proper
8 functioning of the commission.

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

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

16 (1) This chapter.

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

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

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

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

1 (2) Has not been convicted of a felony or an offense
2 graded a serious misdemeanor, as defined by the act of
3 January 29, 2004 (P.L.4, No.2), known as the Confidence in
4 Law Enforcement Act.

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

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

15 (d) Firearms.--

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

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

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

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

30 (iii) Another firearms program determined by the

1 Commissioner of Pennsylvania State Police to be of
2 sufficient scope and duration as to provide the
3 participant with basic training in the use and handling
4 of firearms.

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

9 § 1102.6. Photo identification.

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

14 (1) A photo of the individual taken within the previous
15 24 months.

16 (2) The name of the individual.

17 (3) The signature of the individual.

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

19 (5) The date of issuance of the photo identification
20 card.

21 § 1102.7. Immunity of witnesses.

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

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

30 (1) The testimony or other information from a witness

1 may be necessary to the public interest.

2 (2) A witness has refused or is likely to refuse to
3 testify or provide other information on the basis of using
4 the privilege against self-incrimination.

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

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

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

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

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

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

1 (f) Criminal contempt.--In addition to civil contempt as
2 provided in subsection (e), a person who fails to comply with an
3 immunity order shall be guilty of criminal contempt and, upon
4 conviction, shall be sentenced to pay a fine of not more than
5 \$5,000 or to imprisonment for not more than one year, or both.

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

26 § 1102.8. Enforcement of subpoenas.

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

1 court for the enforcement of the subpoena.

2 (b) Contempt.--If a person who has been ordered by the court
3 to comply with a subpoena issued under section 1102.4(3) fails
4 to obey the command of the order, an application may be made to
5 the court for the person to be brought before the court
6 authorized to proceed against the person for civil contempt of
7 court.

8 Section 4. Sections 1103 and 1104 of Title 65 are amended to
9 read:

10 § 1103. Restricted activities.

11 (a) Conflict of interest.--No public official or public
12 employee shall engage in conduct that constitutes a conflict of
13 interest.

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

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

1 action or judgment of the public official or public employee or
2 nominee or candidate for public office would be influenced
3 thereby.

4 (d) Honorarium.--No public official or public employee shall
5 accept an honorarium.

6 (e) Contingent and severance payments.--

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

10 (2) This subsection shall not prohibit:

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

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

23 (3) Payments made or received pursuant to paragraph (2)

24 (i) and (ii) shall not be based on the agreement, written or
25 otherwise, that the vote or official action of the
26 prospective public official or employee would be influenced
27 thereby.

28 (f) Contract.--No public official or public employee or
29 [his] spouse or child of the public official or public employee
30 or any business in which the person [or his], spouse or child is

1 associated shall enter into any contract valued at \$500 or more
2 with the governmental body with which the public official or
3 public employee is associated or any subcontract valued at \$500
4 or more with any person who has been awarded a contract with the
5 governmental body with which the public official or public
6 employee is associated unless the contract has been awarded
7 through an open and public process, including prior public
8 notice and subsequent public disclosure of all proposals
9 considered and contracts awarded. In such a case, the public
10 official or public employee shall not have any supervisory or
11 overall responsibility for the implementation or administration
12 of the contract. Any contract or subcontract made in violation
13 of this subsection shall be voidable by a court of competent
14 jurisdiction if the suit is commenced within 90 days of the
15 making of the contract or subcontract.

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

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

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

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

12 (j) Voting conflict.--

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

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

1 (3) In the case of a three-member governing body of a
2 political subdivision, where one member has abstained from
3 voting as a result of a conflict of interest and the
4 remaining two members of the governing body have cast
5 opposing votes, the member who has abstained shall be
6 permitted to vote to break the tie vote if disclosure is made
7 as otherwise provided herein.

8 § 1104. Statement of financial interests required to be filed.

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

30 (b) Candidate.--

1 (1) Any candidate for a State-level public office shall
2 file a statement of financial interests for the preceding
3 calendar year with the commission on or before the last day
4 for filing a petition to appear on the ballot for election. A
5 copy of the statement of financial interests shall also be
6 appended to such petition.

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

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

22 (c) Nominee.--

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

29 (2) Each nominee for a county-level or local office
30 shall file a statement of financial interests for the

1 preceding calendar year with the governing authority of the
2 political subdivision in which he or she is a nominee and, if
3 different, with the official or body that is vested with the
4 power of confirmation at least ten days before the official
5 or body [shall approve or reject] approves or rejects the
6 nomination.

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

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

18 Section 5. Sections 1106 and 1107 of Title 65 are repealed:
19 [§ 1106. State Ethics Commission.

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

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

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

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

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

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

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

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

17 (5) be employed by the Commonwealth or a political
18 subdivision in any other capacity, whether or not for
19 compensation.

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

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

29 (f) Election of chairman and vice chairman.--The commission
30 shall elect a chairman and a vice chairman. The vice chairman

1 shall act as chairman in the absence of the chairman or in the
2 event of a vacancy in that position.

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

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

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

29 (j) Regulations.--The commission shall develop regulations
30 that provide for a code of conduct to govern the activities and

1 ethical standards of its members, which code shall subject the
2 members of the commission to no less than is required for public
3 officials or public employees under this chapter.

4 § 1107. Powers and duties of commission.

5 In addition to other powers and duties prescribed by law, the
6 commission shall:

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

9 (2) Prescribe forms for statements and reports required
10 to be filed by this chapter and furnish such forms to persons
11 required to file such statements and reports.

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

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

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

29 (6) Provide that statements and reports filed with the
30 commission be made available for public inspection and

1 copying during regular office hours and provide that copying
2 facilities be made available at a charge not to exceed actual
3 cost and advise other State and local agencies of the
4 provisions of this paragraph.

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

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

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

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

1 contain such deletions and changes as shall be necessary to
2 protect the identity of the persons involved.

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

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

25 (13) Issue findings, reports and orders relating to
26 investigations initiated pursuant to section 1108 which set
27 forth the alleged violation, findings of fact and conclusions
28 of law. An order may include recommendations to law
29 enforcement officials. Any order resulting from a finding
30 that a public official or public employee has obtained a

1 financial gain in violation of this chapter may require the
2 restitution plus interest of that gain to the appropriate
3 governmental body. The commission or the Office of Attorney
4 General shall have standing to apply to the Commonwealth
5 Court to seek enforcement of an order requiring such
6 restitution. This restitution requirement shall be in
7 addition to any other penalties provided for in this chapter.

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

10 (15) Make recommendations to law enforcement officials
11 either for criminal prosecution or dismissal of charges
12 arising out of violations of this chapter.

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

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

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

29 (19) Hold at least two public hearings each year, of
30 which at least one shall be held in Harrisburg and at least

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

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

7 § 1108. Investigations of violations of this chapter by
8 commission.

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

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

1 (c) Initiation of investigation.--If a preliminary inquiry
2 establishes reason to believe that [this chapter has] section
3 1103, 1104 or 1105(a) or this section has been violated, the
4 commission may, through its executive director, initiate an
5 investigation to determine if there has been a violation. The
6 commission shall keep information, records and proceedings
7 relating to an investigation confidential until a final
8 determination is made, except as otherwise provided in
9 subsection (g). No investigation may be commenced until the
10 person who is the subject of the investigation has been notified
11 and provided a general statement of the alleged violation or
12 violations of this chapter and other applicable statutes with
13 respect to such investigation. Service of notice is complete
14 upon mailing which shall be by certified or registered mail. The
15 commission shall notify the complainant within 72 hours of the
16 commencement of an investigation, and, thereafter, the
17 commission shall advise the complainant and the person who is
18 the subject of the investigation of the status of the
19 investigation at least every 90 days until the investigation is
20 terminated. The commission shall, within 180 days of the
21 initiation of an investigation, either terminate the
22 investigation pursuant to subsection (d) or issue a findings
23 report pursuant to subsection (e). Upon a showing by the
24 executive director of the need for extension of this period, the
25 commission may extend an investigation for up to two 90-day
26 periods, provided that each 90-day extension shall be approved
27 by a majority vote of members present. In no event shall a
28 findings report be issued later than 360 days after initiation
29 of an investigation.

30 (d) Termination of investigation.--If an investigation

1 conducted under this [chapter] section indicates that no
2 violation has been committed, the commission shall immediately
3 terminate the investigation and send written notice of such
4 determination to the complainant and the person who was the
5 subject of the investigation.

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

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

1 reconsideration in accordance with the regulations of the
2 commission.

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

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

28 (i) Appeal.--Any person aggrieved by an opinion or order
29 which becomes final in accordance with the provisions of this
30 [chapter] section who has direct interest in such opinion or

1 order shall have the right to appeal therefrom in accordance
2 with law and general rules.

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

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

- 22 (1) final orders of the commission as provided in
23 subsection (h);
- 24 (2) hearings conducted in public pursuant to subsection
25 (g);
- 26 (3) for the purpose of seeking advice of legal counsel;
- 27 (4) filing an appeal from a commission order;
- 28 (5) communicating with the commission or its staff, in
29 the course of a preliminary inquiry, investigation, hearing
30 or petition for reconsideration by the commission;

1 (6) consulting with a law enforcement official or agency
2 for the purpose of initiating, participating in or responding
3 to an investigation or prosecution by the law enforcement
4 official or agency;

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

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

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

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

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

27 § 1109. Penalties.

28 * * *

29 (c) Treble damages.--Any person who obtains financial gain
30 from violating any provision of [this chapter] section 1103

1 (relating to restricted activities), 1104 (relating to statement
2 of financial interests required to be filed), 1105(a) (relating
3 to statement of financial interests) or 1108 (relating to
4 investigations of violations of this chapter by commission), in
5 addition to any other penalty provided by law, shall pay a sum
6 of money equal to three times the amount of the financial gain
7 resulting from such violation into the State Treasury or the
8 treasury of the political subdivision. Treble damages shall not
9 be assessed against a person who acted in good faith reliance on
10 the advice of legal counsel.

11 * * *

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

23 * * *

24 Section 7. Title 65 is amended by adding a section to read:
25 § 1109.1. Costs, restitution and forfeiture.

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

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

30 (2) Award of costs of prosecution or other fees or costs

1 awarded as a result of a conviction for any criminal offense
2 based, in whole or in part, on an investigation by the
3 commission.

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

5 § 1110. Wrongful use of chapter.

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

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

17 (2) he publicly disclosed or caused to be disclosed that
18 a complaint against a person had been filed with the
19 commission.

20 (b) Probable cause.--A person who signs a complaint alleging
21 a violation of [this chapter] section 1103, 1104, 1105(a) or
22 1108 has probable cause for doing so if he reasonably believes
23 in the existence of the facts upon which the claim is based and
24 either:

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

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

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

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

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

21 (2) The expenses, including any reasonable attorney
22 fees, that he has reasonably incurred in proceedings before
23 the commission.

24 (3) Any specific pecuniary loss that has resulted from
25 the proceedings.

26 (4) Any emotional distress that has been caused by the
27 proceedings.

28 (5) Any punitive damages according to law in appropriate
29 cases.

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

1 § 1110.1. Disclosure of executive session testimony and
2 investigative records.

3 No testimony taken in executive session, a part thereof or a
4 summary thereof and no investigative record, a part thereof or a
5 summary thereof may be released or disclosed to a person either
6 orally or in writing by a commissioner or employee of the
7 commission without the authorization of the commission.

8 § 1110.2. Privileged statements and reports.

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

16 § 1110.3. Commission disclosure of economic interests.

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

29 (b) Record.--The Governor, the Secretary of the Senate and
30 the Chief Clerk of the House of Representatives shall maintain

1 the economic interests statements filed by commissioners as
2 public records which shall be open for public examination and
3 copying, at cost, at all reasonable times. The economic
4 interests statements shall remain on file for five years from
5 the initial date of filing.

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

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

17 (e) Contents.--The sworn economic interests statement shall
18 contain:

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

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

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

1 included.

2 (4) The name of each business, insurance policy or trust
3 in which the commissioner or a member of the commissioner's
4 household has a financial interest and the nature and
5 category of the amount of the interest.

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

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

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

21 (f) Amounts.--Where an amount is required to be reported by
22 category, the individual shall report whether the amount is less
23 than \$5,000, at least \$5,000 but less than \$10,000, at least
24 \$10,000 but less than \$25,000 or \$25,000 or more. An amount of
25 stock may be reported by number of shares instead of by category
26 of dollar value.

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

1 § 1111.1. Applicable statutes.

2 The provisions of Chapters 7 (relating to open meetings) and
3 11 (relating to ethics standards and financial disclosure) shall
4 apply to the commission except as otherwise provided in this
5 chapter.

6 Section 10. This act shall take effect in 60 days.