

No. 1998-93

AN ACT

SB 254

Amending Title 65 (Public Officers) of the Pennsylvania Consolidated Statutes, providing for public confidence in government by consolidating and revising existing laws relating to open meetings, ethical standards and financial disclosure and lobbying regulation and disclosure; and continuing the existence of the State Ethics Commission.

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

Section 1. Title 65 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART II
ACCOUNTABILITY

Chapter

- 7. Open Meetings
- 11. Ethics Standards and Financial Disclosure
- 13. Lobby Regulation and Disclosure

CHAPTER 7
OPEN MEETINGS

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§ 701. Short title of chapter.

This chapter shall be known and may be cited as the Sunshine Act.

§ 702. Legislative findings and declaration.

(a) Findings.—The General Assembly finds that the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formulation and decisionmaking of agencies is vital to the enhancement and proper functioning of the democratic process and that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society.

(b) Declarations.—The General Assembly hereby declares it to be the public policy of this Commonwealth to insure the right of its citizens to have notice of and the right to attend all meetings of agencies at which any agency business is discussed or acted upon as provided in this chapter.

§ 703. Definitions.

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

“Administrative action.” The execution of policies relating to persons or things as previously authorized or required by official action of the agency adopted at an open meeting of the agency. The term does not, however, include the deliberation of agency business.

“Agency.” The body, and all committees thereof authorized by the body to take official action or render advice on matters of agency business, of all the following: the General Assembly, the executive branch of the government of this Commonwealth, including the Governor's Cabinet when meeting on official policymaking business, any board, council, authority or commission of the Commonwealth or of any political subdivision of the Commonwealth or any State, municipal, township or school authority, school board, school governing body, commission, the boards of trustees of all State-aided colleges and universities, the councils of trustees of all State-owned colleges and universities, the boards of trustees of all State-related universities and all community colleges or similar organizations created by or pursuant to a statute which declares in substance that the organization performs or has for its purpose the performance of an essential governmental function and through the joint action of its members exercises governmental authority and takes official action. The term does not include a caucus or a meeting of an ethics committee created under rules of the Senate or House of Representatives.

“Agency business.” The framing, preparation, making or enactment of laws, policy or regulations, the creation of liability by contract or otherwise or the adjudication of rights, duties and responsibilities, but not including administrative action.

“Caucus.” A gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action in the General Assembly.

“Conference.” Any training program or seminar, or any session arranged by State or Federal agencies for local agencies, organized and conducted for the sole purpose of providing information to agency members on matters directly related to their official responsibilities.

“Deliberation.” The discussion of agency business held for the purpose of making a decision.

“Emergency meeting.” A meeting called for the purpose of dealing with a real or potential emergency involving a clear and present danger to life or property.

“Executive session.” A meeting from which the public is excluded, although the agency may admit those persons necessary to carry out the purpose of the meeting.

“Litigation.” Any pending, proposed or current action or matter subject to appeal before a court of law or administrative adjudicative body, the decision of which may be appealed to a court of law.

“Meeting.” Any prearranged gathering of an agency which is attended or participated in by a quorum of the members of an agency held for the purpose of deliberating agency business or taking official action.

“Official action.”

(1) Recommendations made by an agency pursuant to statute, ordinance or executive order.

(2) The establishment of policy by an agency.

(3) The decisions on agency business made by an agency.

(4) The vote taken by any agency on any motion, proposal, resolution, rule, regulation, ordinance, report or order.

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, intermediate unit, vocational school district or county institution district.

“Public notice.”

(1) For a meeting:

(i) Publication of notice of the place, date and time of a meeting in a newspaper of general circulation, as defined by 45 Pa.C.S. § 101 (relating to definitions), which is published and circulated in the political subdivision where the meeting will be held, or in a newspaper of general circulation which has a bona fide paid circulation in the political subdivision equal to or greater than any newspaper published in the political subdivision.

(ii) Posting a notice of the place, date and time of a meeting prominently at the principal office of the agency holding the meeting or at the public building in which the meeting is to be held.

(iii) Giving notice to parties under section 709(c) (relating to public notice).

(2) For a recessed or reconvened meeting:

(i) Posting a notice of the place, date and time of the meeting prominently at the principal office of the agency holding the meeting or at the public building in which the meeting is to be held.

(ii) Giving notice to parties under section 709(c).

“Special meeting.” A meeting scheduled by an agency after the agency’s regular schedule of meetings has been established.

§ 704. Open meetings.

Official action and deliberations by a quorum of the members of an agency shall take place at a meeting open to the public unless closed under section 707 (relating to exceptions to open meetings), 708 (relating to executive sessions) or 712 (relating to General Assembly meetings covered).

§ 705. Recording of votes.

In all meetings of agencies, the vote of each member who actually votes on any resolution, rule, order, regulation, ordinance or the setting of official policy must be publicly cast and, in the case of roll call votes, recorded.

§ 706. Minutes of meetings, public records and recording of meetings.

Written minutes shall be kept of all open meetings of agencies. The minutes shall include:

(1) The date, time and place of the meeting.

(2) The names of members present.

(3) The substance of all official actions and a record by individual member of the roll call votes taken.

(4) The names of all citizens who appeared officially and the subject of their testimony.

§ 707. Exceptions to open meetings.

(a) Executive session.—An agency may hold an executive session under section 708 (relating to executive sessions).

(b) Conference.—An agency is authorized to participate in a conference which need not be open to the public. Deliberation of agency business may not occur at a conference.

(c) Certain working sessions.—Boards of auditors may conduct working sessions not open to the public for the purpose of examining, analyzing, discussing and deliberating the various accounts and records with respect to which such boards are responsible, so long as official action of a board with respect to such records and accounts is taken at a meeting open to the public and subject to the provisions of this chapter.

§ 708. Executive sessions.

(a) Purpose.—An agency may hold an executive session for one or more of the following reasons:

(1) To discuss any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the agency, or former public officer or employee, provided, however, that the individual employees or appointees whose rights could be adversely affected may request, in writing, that the matter or matters be discussed at an open meeting. The agency’s decision to discuss such matters in executive session shall not serve to adversely affect the due process rights granted by law, including

those granted by Title 2 (relating to administrative law and procedure). The provisions of this paragraph shall not apply to any meeting involving the appointment or selection of any person to fill a vacancy in any elected office.

(2) To hold information, strategy and negotiation sessions related to the negotiation or arbitration of a collective bargaining agreement or, in the absence of a collective bargaining unit, related to labor relations and arbitration.

(3) To consider the purchase or lease of real property up to the time an option to purchase or lease the real property is obtained or up to the time an agreement to purchase or lease such property is obtained if the agreement is obtained directly without an option.

(4) To consult with its attorney or other professional advisor regarding information or strategy in connection with litigation or with issues on which identifiable complaints are expected to be filed.

(5) To review and discuss agency business which, if conducted in public, would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law, including matters related to the initiation and conduct of investigations of possible or certain violations of the law and quasi-judicial deliberations.

(6) For duly constituted committees of a board or council of trustees of a State-owned, State-aided or State-related college or university or community college or of the Board of Governors of the State System of Higher Education to discuss matters of academic admission or standings.

(b) Procedure.—The executive session may be held during an open meeting or at¹ the conclusion of an open meeting or² may be announced for a future time. The reason for holding the executive session must be announced at the open meeting occurring immediately prior or subsequent to the executive session. If the executive session is not announced for a future specific time, members of the agency shall be notified 24 hours in advance of the time of the convening of the meeting specifying the date, time, location and purpose of the executive session.

(c) Limitation.—Official action on discussions held pursuant to subsection (a) shall be taken at an open meeting. Nothing in this section or section 707 (relating to exceptions to open meetings) shall be construed to require that any meeting be closed to the public, nor shall any executive session be used as a subterfuge to defeat the purposes of section 704 (relating to open meetings).

§ 709. Public notice.

(a) Meetings.—An agency shall give public notice of its first regular meeting of each calendar or fiscal year not less than three days in advance of the meeting and shall give public notice of the schedule of its remaining

¹"meeting, at" in enrolled bill.

²"meeting, or" in enrolled bill.

regular meetings. An agency shall give public notice of each special meeting or each rescheduled regular or special meeting at least 24 hours in advance of the time of the convening of the meeting specified in the notice. Public notice is not required in the case of an emergency meeting or a conference. Professional licensing boards within the Bureau of Professional and Occupational Affairs of the Department of State of the Commonwealth shall include in the public notice each matter involving a proposal to revoke, suspend or restrict a license.

(b) Notice.—With respect to any provision of this chapter that requires public notice to be given by a certain date, the agency, to satisfy its legal obligation, must give the notice in time to allow it to be published or circulated within the political subdivision where the principal office of the agency is located or the meeting will occur before the date of the specified meeting.

(c) Copies.—In addition to the public notice required by this section, the agency holding a meeting shall supply, upon request, copies of the public notice thereof to any newspaper of general circulation in the political subdivision in which the meeting will be held, to any radio or television station which regularly broadcasts into the political subdivision and to any interested parties if the newspaper, station or party provides the agency with a stamped, self-addressed envelope prior to the meeting.

(d) Meetings of General Assembly in Capitol Complex.—Notwithstanding any provision of this section to the contrary, in case of sessions of the General Assembly, all meetings of legislative committees held within the Capitol Complex where bills are considered, including conference committees, all legislative hearings held within the Capitol Complex where testimony is taken and all meetings of legislative commissions held within the Capitol Complex, the requirement for public notice thereof shall be complied with if, not later than the preceding day:

(1) The supervisor of the newsroom of the State Capitol Building in Harrisburg is supplied for distribution to the members of the Pennsylvania Legislative Correspondents Association with a minimum of 30 copies of the notice of the date, time and place of each session, meeting or hearing.

(2) There is a posting of the copy of the notice at public places within the Main Capitol Building designated by the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(e) Announcement.—Notwithstanding any provision of this chapter to the contrary, committees may be called into session in accordance with the provisions of the Rules of the Senate or the House of Representatives and an announcement by the presiding officer of the Senate or the House of Representatives. The announcement shall be made in open session of the Senate or the House of Representatives.

§ 710. Rules and regulations for conduct of meetings.

Nothing in this chapter shall prohibit the agency from adopting by official action the rules and regulations necessary for the conduct of its meetings and

the maintenance of order. The rules and regulations shall not be made to violate the intent of this chapter.

§ 710.1. Public participation.

(a) General rule.—Except as provided in subsection (d), the board or council of a political subdivision or of an authority created by a political subdivision shall provide a reasonable opportunity at each advertised regular meeting and advertised special meeting for residents of the political subdivision or of the authority created by a political subdivision or for taxpayers of the political subdivision or of the authority created by a political subdivision or for both to comment on matters of concern, official action or deliberation which are or may be before the board or council prior to taking official action. The board or council has the option to accept all public comment at the beginning of the meeting. If the board or council determines that there is not sufficient time at a meeting for residents of the political subdivision or of the authority created by a political subdivision or for taxpayers of the political subdivision or of the authority created by a political subdivision or for both to comment, the board or council may defer the comment period to the next regular meeting or to a special meeting occurring in advance of the next regular meeting.¹

(b) Limitation on judicial relief.—If a board or council of a political subdivision or an authority created by a political subdivision has complied with the provisions of subsection (a), the judicial relief under section 713 (relating to business transacted at unauthorized meeting void) shall not be available on a specific action solely on the basis of lack of comment on that action.

(c) Objection.—Any person has the right to raise an objection at any time to a perceived violation of this chapter at any meeting of a board or council of a political subdivision or an authority created by a political subdivision.

(d) Exception.—The board or council of a political subdivision or of an authority created by a political subdivision which had, before January 1, 1993, established a practice or policy of holding special meetings solely for the purpose of public comment in advance of advertised regular meetings shall be exempt from the provisions of subsection (a).

§ 711. Use of equipment during meetings.

(a) Recording devices.—Except as provided in subsection (b), a person attending a meeting of an agency shall have the right to use recording devices to record all the proceedings. Nothing in this section shall prohibit the agency from adopting and enforcing reasonable rules for their use under section 710 (relating to rules and regulations for conduct of meetings).

(b) Rules of the Senate and House of Representatives.—The Senate and House of Representatives may adopt rules governing the recording or broadcast of their sessions and meetings and hearings of committees.

¹Sentence reading "The board or counsel has the option to accept all public comment at the beginning of the meeting." omitted from enrolled bill.

§ 712. General Assembly meetings covered.

Notwithstanding any other provision, for the purpose of this chapter, meetings of the General Assembly which are covered are as follows: all meetings of committees where bills are considered, all hearings where testimony is taken and all sessions of the Senate and the House of Representatives. Not included in the intent of this chapter are caucuses or meetings of any ethics committee created pursuant to the Rules of the Senate or the House of Representatives.

§ 713. Business transacted at unauthorized meeting void.

A legal challenge under this chapter shall be filed within 30 days from the date of a meeting which is open, or within 30 days from the discovery of any action that occurred at a meeting which was not open at which this¹ chapter was violated, provided that, in the case of a meeting which was not open, no legal challenge may be commenced more than one year from the date of said meeting. The court may enjoin any challenged action until a judicial determination of the legality of the meeting at which the action was adopted is reached. Should the court determine that the meeting did not meet the requirements of this chapter, it may in its discretion find that any or all official action taken at the meeting shall be invalid. Should the court determine that the meeting met the requirements of this chapter, all official action taken at the meeting shall be fully effective.

§ 714. Penalty.

Any member of any agency who participates in a meeting with the intent and purpose by that member of violating this chapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding \$100 plus costs of prosecution.

§ 714.1. Attorney fees.

If the court determines that an agency willfully or with wanton disregard violated a provision of this chapter, in whole or in part, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs. If the court finds that the legal challenge was of a frivolous nature or was brought with no substantial justification, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs.

§ 715. Jurisdiction and venue of judicial proceedings.

The Commonwealth Court shall have original jurisdiction of actions involving State agencies and the courts of common pleas shall have original jurisdiction of actions involving other agencies to render declaratory judgments or to enforce this chapter by injunction or other remedy deemed appropriate by the court. The action may be brought by any person where the agency whose act is complained of is located or where the act complained of occurred.

¹"the" in enrolled bill.

§ 716. Confidentiality.

All acts and parts of acts are repealed insofar as they are inconsistent with this chapter, excepting those statutes which specifically provide for the confidentiality of information. Those deliberations or official actions which, if conducted in public, would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law, including matter related to the investigation of possible or certain violations of the law and quasi-judicial deliberations, shall not fall within the scope of this chapter.

CHAPTER 11
ETHICS STANDARDS AND FINANCIAL DISCLOSURE

Sec.

1101. Short title of chapter.

1101.1. Purpose.

1102. Definitions.

1103. Restricted activities.

1104. Statement of financial interests required to be filed.

1105. Statement of financial interests.

1106. State Ethics Commission.

1107. Powers and duties of commission.

1108. Investigations by commission.

1109. Penalties.

1110. Wrongful use of chapter.

1111. Supplemental provisions.

1112. Conflict of law.

1113. Severability.

§ 1101. Short title of chapter.

This chapter shall be known and may be cited as the Public Official and Employee Ethics Act.

§ 1101.1. Purpose.

(a) **Declarations.**—The Legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In order to strengthen the faith and confidence of the people of 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.

(b) **Recognition.**—It is recognized that many public officials, including most local officials and members of the General Assembly, are citizen-

officials who bring to their public office the knowledge and concerns of ordinary citizens and taxpayers. They should not be discouraged from maintaining their contacts with their community through their occupations and professions. Thus, in order to foster maximum compliance with its terms, this chapter shall be administered in a manner that emphasizes guidance to public officials and public employees regarding the ethical standards established by this chapter.

(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.

§ 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 issued under section 1107(11) (relating to powers and duties of commission) and based exclusively on prior commission opinions, this chapter, regulations promulgated pursuant to this chapter and court opinions which interpret this chapter.

“Aggregate.” The total of all gifts received from a single source as provided in section 1105(b)(6) (relating to statement of financial interests).

“Authority of office or employment.” The actual power provided by law, the exercise of which is necessary to the performance of duties and responsibilities unique to a particular public office or position of public employment.

“Business.” Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

“Business with which he is associated.” Any business in which the person or a member of the person’s immediate family is a director, officer, owner, employee or has a financial interest.

“Candidate.” Any individual who seeks nomination or election to public office by vote of the electorate, other than a judge of elections, inspector of elections or official of a political party, whether or not such individual is nominated or elected. An individual shall be deemed to be seeking nomination or election to such office if he has:

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

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

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

“Commission.” The State Ethics Commission.

“Confidential information.” Information not obtainable from reviewing a public document or from making inquiry to a publicly available source of information.

“Conflict” or “conflict of interest.” Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

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

“De minimis economic impact.” An economic consequence which has an insignificant effect.

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

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

“Findings report.” An initial report containing findings of fact as determined by the State Ethics Commission’s investigation but not containing any conclusions of law or any determination of whether there has been a violation of law.

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

“Gift.” Anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reported as required by law or a commercially reasonable loan made in the ordinary course of business.

“Governmental body.” Any department, authority, commission, committee, council, board, bureau, division, service, office, officer, administration, legislative body or other establishment in the executive, legislative or judicial branch of a state, a nation or a political subdivision thereof or any agency performing a governmental function.

“Governmental body with which a public official or public employee is or has been associated.” The governmental body within State government or a political subdivision by which the public official or employee is or has been employed or to which the public official or employee is or has been appointed or elected and subdivisions and offices within that governmental body.

“Honorarium.” Payment made in recognition of published works, appearances, speeches and presentations and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature. The term does not include tokens presented or provided which are of de minimis economic impact.

“Immediate family.” A parent, spouse, child, brother or sister.

“Income.” Any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional corporation, partnership or other entity resulting from termination or withdrawal therefrom upon assumption of public office or employment or any other form of recompense or any combination thereof. The term refers to gross income and includes prize winnings and tax-exempt income. The term does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children.

“Indirect interest in real estate.” Any business entity the assets of which are 80% or more in real property.

“Ministerial action.” An action that a person performs in a prescribed manner in obedience to the mandate of legal authority without regard to or the exercise of the person’s own judgment as to the desirability of the action being taken.

“Nominee.” Any person whose name has been submitted to a public official or governmental body vested with the power to finally confirm or reject proposed appointments to public office or employment.

“Nonministerial actions.” An action in which the person exercises his own judgment as to the desirability of the action taken.

“Opinion.” A directive of the State Ethics Commission issued pursuant to section 1107(10) (relating to powers and duties of commission) setting forth a public official’s or public employee’s duties under this chapter.

“Order.” A directive of the State Ethics Commission issued pursuant to section 1107(13) (relating to powers and duties of commission) at the conclusion of an investigation which contains findings of fact, conclusions of law and penalties.

“Person.” A business, governmental body, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

“Political contribution.” Any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fundraising affair, or subscription of money or anything of value except volunteer services, in connection with a political campaign, and any contract, agreement, promise or other obligations, whether or not legally enforceable, to make a political contribution.

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.

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

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

The term shall not include individuals who are employed by this Commonwealth or any political subdivision thereof in teaching as distinguished from administrative duties.

“Public official.” Any person elected by the public or elected or appointed by a governmental body or an appointed official in the executive, legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or any political subdivision thereof.

“Represent.” To act on behalf of any other person in any activity which includes, but is not limited to, the following: personal appearances, negotiations, lobbying and submitting bid or contract proposals which are signed by or contain the name of a former public official or public employee.

“Solicitor.” A person elected or appointed to the office of solicitor for the political subdivision.

“Source.” Any person who is a provider of an item reportable under section 1105 (relating to statement of financial interests).

“State consultant.” A person who, as an independent contractor, performs professional, scientific, technical or advisory service for an agency of this Commonwealth and who receives a fee, honorarium or similar compensation for such services. A State consultant is not an executive-level employee.

§ 1103. Restricted activities.

(a) Conflict of interest.—No public official or public employee shall engage in conduct that constitutes a conflict of interest.

(b) Seeking improper influence.—No person shall offer or give to a public official, public employee or nominee or candidate for public office or a member of his immediate family or a business with which he is associated anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment based on the offeror’s or donor’s understanding that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

(c) Accepting improper influence.—No public official, public employee or nominee or candidate for public office shall solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding of that public official, public employee or nominee that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

(d) Honorarium.—No public official or public employee shall accept an honorarium.

(e) Contingent and severance payments.—

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

(2) This subsection shall not prohibit:

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

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

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

(f) **Contract.**—No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract. Any contract or subcontract made in violation of this subsection shall be voidable by a court of competent jurisdiction if the suit is commenced within 90 days of the making of the contract or subcontract.

(g) **Former official or employee.**—No former public official or public employee shall represent a person, with promised or actual compensation, on any matter before the governmental body with which he has been associated for one year after he leaves that body.

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

(i) **Former executive-level employee.**—No former executive-level State employee may for a period of two years from the time that he terminates employment with this Commonwealth be employed by, receive compensation from, assist or act in a representative capacity for a business or corporation that he actively participated¹ in recruiting to this Commonwealth or that he actively participated in inducing to open a new plant, facility or branch in this Commonwealth or that he actively participated in inducing to expand an existent plant or facility within this Commonwealth, provided that the above prohibition shall be invoked only when the recruitment or inducement is accomplished by a grant or loan of money or a promise of a grant or loan of money from the Commonwealth to the business or corporation recruited or induced to expand.

(j) **Voting conflict.**—Where voting conflicts are not otherwise addressed by the Constitution of Pennsylvania or by any law, rule, regulation, order or ordinance, the following procedure shall be employed. Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, provided that whenever a governing body would be unable to take any action on a matter before it because the number of

¹"participates" in enrolled bill.

members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosures are made as otherwise provided herein. In the case of a three-member governing body of a political subdivision, where one member has abstained from voting as a result of a conflict of interest and the remaining two members of the governing body have cast opposing votes, the member who has abstained shall be permitted to vote to break the tie vote if disclosure is made as otherwise provided herein.

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

(a) Public official or public employee.—Each public official of the Commonwealth shall file a statement of financial interests for the preceding calendar year with the commission no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Each public employee and public official of the Commonwealth shall file a statement of financial interests for the preceding calendar year with the department, agency, body or bureau in which he is employed or to which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Any other public employee or public official shall file a statement of financial interests with the governing authority of the political subdivision by which he is employed or within which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Persons who are full-time or part-time solicitors for political subdivisions are required to file under this section.

(b) Candidate.—

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

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

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

(c) Nominee.—Each State-level nominee for public office shall file a statement of financial interests for the preceding calendar year with the commission and with the official or body that is vested with the power of

confirmation at least ten days before the official or body shall approve or reject the nomination. Each nominee for a county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the political subdivision in which he or she is a nominee and, if different, with the official or body that is vested with the power of confirmation at least ten days before the official or body shall approve or reject the nomination.

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

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

§ 1105. Statement of financial interests.

(a) Form.—The statement of financial interests filed pursuant to this chapter shall be on a form prescribed by the commission. All information requested on the statement shall be provided to the best of the knowledge, information and belief of the person required to file and shall be signed under oath or equivalent affirmation.

(b) Required information.—The statement shall include the following information for the prior calendar year with regard to the person required to file the statement:

(1) Name, address and public position.

(2) Occupation or profession.

(3) Any direct or indirect interest in any real estate which was sold or leased to the Commonwealth, any of its agencies or political subdivisions, or purchased¹ or leased from the Commonwealth, any of its agencies or political subdivisions, or which was the subject of any condemnation proceedings by the Commonwealth, any of its agencies or political subdivisions.

(4) The name and address of each creditor to whom is owed in excess of \$6,500 and the interest rate thereon. However, loans or credit extended between members of the immediate family and mortgages securing real property which is the principal or secondary residence of the person filing shall not be included.

(5) The name and address of any direct or indirect source of income totaling in the aggregate \$1,300 or more. However, this provision shall not be construed to require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.

¹"subdivisions; purchased" in enrolled bill.

(6) The name and address of the source and the amount of any gift or gifts valued in the aggregate at \$250 or more and the circumstances of each gift. This paragraph shall not apply to a gift or gifts received from a spouse, parent, parent by marriage, sibling, child, grandchild, other family member or friend when the circumstances make it clear that the motivation for the action was a personal or family relationship. However, for the purposes of this paragraph, the term "friend" shall not include a registered lobbyist or an employee of a registered lobbyist.

(7) The name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where such actual expenses for transportation and lodging or hospitality exceed \$650 in the course of a single occurrence. This paragraph shall not apply to expenses reimbursed by a governmental body or to expenses reimbursed by an organization or association of public officials or employees of political subdivisions which the public official or employee serves in an official capacity.

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

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

(10) The identity of any financial interest in a business with which the reporting person is or has been associated in the preceding calendar year which has been transferred to a member of the reporting person's immediate family.

(c) Reporting amounts.—Except where an amount is required to be reported pursuant to subsection (b)(6) and (7), the statement of financial interests need not include specific amounts for the items required to be listed.

(d) Cost-of-living adjustments.—On a biennial basis the commission shall review the dollar amounts set forth in this section and may increase these amounts to such rates as are deemed reasonable for assuring appropriate disclosure. The commission shall publish any such adjusted threshold amounts in the Pennsylvania Bulletin.

§ 1106. State Ethics Commission.

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

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

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

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

- (1) hold or campaign for any other public office;
- (2) hold office in any political party or political committee;
- (3) actively participate in or contribute to any political campaign;
- (4) directly or indirectly attempt to influence any decision by a governmental body other than a court of law or as a representative of the commission on a matter within the jurisdiction of the commission; or
- (5) be employed by the Commonwealth or a political subdivision in any other capacity, whether or not for compensation.

(e) Vacancy.—A majority of the commission by resolution shall declare vacant the position on the commission of any member who takes part in activities prohibited by subsection (d). An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he succeeds and is eligible for appointment to two full three-year terms thereafter. Any vacancy occurring on the commission shall be filled within 30 days in the manner in which that position was originally filled.

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

(g) Quorum.—Four members of the commission shall constitute a quorum, and, except as provided in section 1108(g) (relating to investigations by commission), the votes of a majority of the members present are¹ required for any action or recommendation of the commission. The chairman or any four members of the commission may call a meeting provided that advance written notice is mailed to each member and to any person who requests notice of such meetings.

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

(i) Staff.—The commission shall employ an executive director, a chief counsel and such other staff as are necessary to carry out its duties pursuant to this chapter. The executive director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned to him by the commission, except that the commission shall not delegate the making of regulations to the executive director. The chief counsel shall be the chief legal officer of the commission.

¹"is" in enrolled bill.

The commission may obtain the services of experts and consultants as necessary to carry out its duties pursuant to this chapter. The State Treasurer and the Attorney General shall make available to the commission such personnel, facilities and other assistance as the commission may request.

(j) Regulations.—The commission shall develop regulations that provide for a code of conduct to govern the activities and ethical standards of its members, which code shall subject the members of the commission to no less than is required for public officials or public employees under this chapter. § 1107. Powers and duties of commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1108. Investigations by commission.

(a) Preliminary inquiry.—Upon a complaint signed under penalty of perjury by any person or upon its own motion, the commission, through its executive director, shall conduct a preliminary inquiry into any alleged violation of this chapter. The commission shall keep information, records and proceedings relating to a preliminary inquiry confidential. The commission shall, however, have the authority to refer the case to law enforcement officials during a preliminary inquiry or anytime thereafter without providing notice to the subject of the inquiry. The commission shall complete its preliminary inquiry within 60 days of its initiation.

(b) Termination of preliminary inquiry.—If a preliminary inquiry fails to establish reason to believe that this chapter has been violated, the commission shall terminate the inquiry and so notify the complainant and the person who had been the subject of the inquiry. If the commission determines that a complaint is frivolous, it shall so state.

(c) Initiation of investigation.—If a preliminary inquiry establishes reason to believe that this chapter has been violated, the commission may, through its executive director, initiate an investigation to determine if there has been a violation. The commission shall keep information, records and proceedings relating to an investigation confidential until a final determination is made, except as otherwise provided in subsection (g). No investigation may be commenced until the person who is the subject of the investigation has been notified and provided a general statement of the alleged violation or violations of this chapter and other applicable statutes with respect to such investigation. Service of notice is complete upon mailing which shall be by

certified or registered mail. The commission shall notify the complainant within 72 hours of the commencement of an investigation, and, thereafter, the commission shall advise the complainant and the person who is the subject of the investigation of the status of the investigation at least every 90 days until the investigation is terminated. The commission shall, within 180 days of the initiation of an investigation, either terminate the investigation pursuant to subsection (d) or issue a findings report pursuant to subsection (e). Upon a showing by the executive director of the need for extension of this period, the commission may extend an investigation for up to two 90-day periods, provided that each 90-day extension shall be approved by a majority vote of members present. In no event shall a findings report be issued later than 360 days after initiation of an investigation.

(d) Termination of investigation.—If an investigation conducted under this chapter indicates that no violation has been committed, the commission shall immediately 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, 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 this section shall be closed to the public unless the subject requests an open hearing. Any person who appears before the commission shall have all of the due process rights, privileges and responsibilities of a party or witness appearing before an administrative agency of this Commonwealth. All witnesses summoned for such hearings shall receive reimbursement for reasonable expenses in accordance with 42 Pa.C.S. § 5903 (relating to compensation and expenses of witnesses). At the conclusion of a hearing concerning an alleged violation

and in a timely manner, the commission shall deliberate on the evidence and determine whether there has been a violation of this chapter. At least four members of the commission present at a meeting must find a violation by clear and convincing proof. The names of the members finding a violation and the names of those dissenting and abstaining shall be listed in the order. The determination of the commission, in the form of a final order and findings of fact, shall be a matter of public record.

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

(i) Appeal.—Any person aggrieved by an opinion or order which becomes final in accordance with the provisions of this chapter who has direct interest in such opinion or order shall have the right to appeal therefrom in accordance with law and general rules.

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

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

- (1) final orders of the commission as provided in subsection (h);
- (2) hearings conducted in public pursuant to subsection (g);
- (3) for the purpose of seeking advice of legal counsel;
- (4) filing an appeal from a commission order;
- (5) communicating with the commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the commission;
- (6) consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;
- (7) testifying under oath before a governmental body or a similar body of the United States of America;
- (8) any information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of; or

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

(l) Frivolous complaints and wrongful disclosure.—If a public official or public employee has reason to believe the complaint is frivolous as defined by this chapter, or without probable cause and made primarily for a purpose other than that of reporting a violation of this chapter, or a person publicly disclosed or caused to be disclosed that a complaint against the public official or public employee has been filed with the commission, the public official or public employee shall notify the commission and the commission, through its executive director, shall conduct an investigation.

(m) Limitation of time.—The commission may conduct an investigation within five years after the alleged occurrence of any violation of this chapter. § 1109. Penalties.

(a) Restricted activities violation.—Any person who violates the provisions of section 1103(a), (b) and (c) (relating to restricted activities) commits a felony and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

(b) Financial interests statement violation.—Any person who violates the provisions of section 1103(d) through (j), 1104 (relating to statement of financial interests required to be filed) or 1105(a) (relating to statement of financial interests) commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both.

(c) Treble damages.—Any person who obtains financial gain from violating any provision of this chapter, in addition to any other penalty provided by law, shall pay a sum of money equal to three times the amount of the financial gain resulting from such violation into the State Treasury or the treasury of the political subdivision. Treble damages shall not be assessed against a person who acted in good faith reliance on the advice of legal counsel.

(d) Impeachment and disciplinary action.—The penalties prescribed in this chapter do not limit the power of either house of the Legislature to discipline its own members or impeach a public official and do not limit the power of agencies or commissions to discipline officials or employees.

(e) Other violations of chapter.—Any person who violates the confidentiality of a commission proceeding pursuant to section 1108 (relating to investigations by commission) commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both. Any person who engages in retaliatory activity proscribed by section 1108(j) commits a misdemeanor and, in addition to any other penalty provided by law, shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both. Any person who willfully affirms or swears falsely in regard to any material matter before a commission proceeding pursuant to section 1108 commits a felony and shall, upon conviction, be

sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than five years, or both.

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

(g) **Reliance on solicitor's opinion.**—A public official of a political subdivision who acts in good faith reliance on a written, nonconfidential opinion of the solicitor of the political subdivision or upon an opinion of the solicitor of the political subdivision, publicly stated at an open meeting of the political subdivision and recorded in the official minutes of the meeting, shall not be subject to the penalties provided for in subsections (a) and (b) nor for the treble damages provided for in subsection (c). However, this subsection shall not apply in situations where the solicitor's opinion has been rendered under duress or where the parties seeking and rendering the solicitor's opinion have colluded to purposefully commit a violation of this chapter.

§ 1110. Wrongful use of chapter.

(a) **Liability.**—A person who signs a complaint alleging a violation of this chapter against another is subject to liability for wrongful use of this chapter if:

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

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

(b) **Probable cause.**—A person who signs a complaint alleging a violation of this chapter has probable cause for doing so if he reasonably believes in the existence of the facts upon which the claim is based and either:

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

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

(c) **Commission procedures.**—When the commission determines that a complainant has violated the provisions set forth in subsection (a), the commission, upon receiving a written request from the subject of the complaint, shall provide the name and address of the complainant to said subject. If the commission determines that a complainant has not violated the provisions of subsection (a), the commission shall notify the subject accordingly. The subject shall have the right to appeal the commission's determination, and the commission shall schedule an appeal hearing. The

subject shall show cause why the complainant violated the provisions of this section. If the commission grants the appeal, the commission shall immediately release the complainant's name and address to the subject. If the commission denies the appeal, it shall present evidence why the complainant's name and address shall not be released.

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

- (1) The harm to his reputation by a defamatory matter alleged as the basis of the proceeding.
- (2) The expenses, including any reasonable attorney fees, that he has reasonably incurred in proceedings before the commission.
- (3) Any specific pecuniary loss that has resulted from the proceedings.
- (4) Any emotional distress that has been caused by the proceedings.
- (5) Any punitive damages according to law in appropriate cases.

§ 1111. Supplemental provisions.

Any governmental body may adopt requirements to supplement this chapter, provided that no such requirements shall in any way be less restrictive than the chapter.

§ 1112. Conflict of law.

Except as otherwise provided in Chapter 13 (relating to lobby regulation and disclosure), if the provisions of this chapter conflict with any other statute, ordinance, regulation or rule, the provisions of this chapter shall control.

§ 1113. Severability.

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

CHAPTER 13 LOBBY REGULATION AND DISCLOSURE

Sec.

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§ 1301. Short title of chapter.

This chapter shall be known and may be cited as the Lobbying Disclosure Act.

§ 1302. Statement of intent and jurisdiction.

(a) Intent.—The Constitution of Pennsylvania recognizes the principle that all free government is founded upon the authority of the people. It further provides that the power to make law in this Commonwealth is vested in the General Assembly and the power to enforce law is vested in the Executive Department. The ability of the people to exercise their fundamental authority and to have confidence in the integrity of the process by which laws are made and enforced in this Commonwealth demands that the identity and the scope of activity of those employed to influence the actions of the General Assembly and the Executive Department be publicly and regularly disclosed.

(b) Jurisdiction.—The authority to regulate persons employed to influence the actions of the General Assembly and the Executive Department lies within the jurisdiction of those branches of government. To insure that the intent of this chapter is not evaded and that all such persons are regulated in a fair and equitable manner, lobbyists and the practice of lobbying shall be subject to this chapter, which shall prevail over any other regulation of professional activity when that activity constitutes lobbying. This chapter is not intended to govern professional activities which do not include lobbying and which are properly the subject of regulation by the judicial branch of government or by any government agency. Membership in a regulated profession shall not excuse a lobbyist from compliance with the provisions of this chapter.

§ 1303. Definitions.

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

“Administrative action.” Any of the following:

(1) An agency’s:

(i) proposal, consideration, promulgation or rescission of a regulation;

(ii) development or modification of a guideline or a statement of policy; or

(iii) approval or rejection of a regulation.

(2) The review, revision, approval or disapproval of a regulation under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(3) The Governor’s approval or veto of legislation.

(4) The nomination or appointment of an individual as an officer or employee of the Commonwealth.

(5) The proposal, consideration, promulgation or rescission of an executive order.

“Affiliated political action committee.” A political action committee as defined in section 1621(l) of the act of June 3, 1937 (P.L.1333, No.320),

known as the Pennsylvania Election Code, which has a chairman, a treasurer or another officer who is a principal, an employee of a principal, a lobbyist or an employee of a lobbyist, provided if an employee of a registrant serves as the officer of a political action committee in what is clearly a personal capacity and the goals and mission of that political action committee clearly have no relationship to the goals and mission of the registrant, such political action committee shall not be considered an affiliated political action committee for the purposes of this definition.

“Agency.” A State agency, board, commission, authority or department.

“Commission.” The State Ethics Commission.

“Compensation.” Anything of value, including benefits, received or to be received from a principal by one acting as a lobbyist.

“Direct communication.” An effort, whether written, oral or by any other medium, made by a lobbyist or principal, directed to a State official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action.

“Economic consideration.” Anything of value offered or received.

“Fund.” The Lobbying Disclosure Fund established in section 1310(b) (relating to filing fees; fund established; regulations).

“Gift.” As defined in section 1102 (relating to definitions).

“Immediate family.” An individual’s spouse, an¹ individual’s child and an individual’s parent, brother, sister or like relative-in-law.

“Indirect communication.” An effort, whether written, oral or by any other medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative action or administrative action. The term includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues. The term does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

“Legislation.” Bills, resolutions, amendments and nominations pending or proposed in either the Senate or the House of Representatives. The term includes any other matter which may become the subject of action by either chamber of the General Assembly.

“Legislative action.” An action taken by a State official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of legislation; legislative motions; overriding or sustaining a veto by the Governor; or confirmation of appointments by the Governor or of appointments to public boards or commissions by a member of the General Assembly.

¹“spouse and” in enrolled bill.

“Lobbying.” An effort to influence legislative action or administrative action. The term includes:

- (1) providing any gift, entertainment, meal, transportation or lodging to a State official or employee for the purpose of advancing the interest of the lobbyist or principal; and
- (2) direct or indirect communication.

“Lobbyist.” Any individual, firm, association, corporation, partnership, business trust or business entity that engages in lobbying on behalf of a principal for economic consideration. The term includes an attorney who engages in lobbying.

“Principal.” Any individual, firm, association, corporation, partnership, business trust or business entity:

- (1) on whose behalf a lobbyist influences or attempts to influence an administrative action or a legislative action; or
- (2) that engages in lobbying on the principal’s own behalf.

“Registrant.” A registered lobbyist or a registered principal.

“Regulation.” Any rule, regulation or order in the nature of a rule or regulation, including formal and informal opinions of the Attorney General, of general application and future effect, promulgated by an agency under statutory authority in the administration of a statute administered by or relating to the agency, or prescribing the practice or procedure before the agency.

“State official or employee.” An individual elected or appointed to a position in State government or employed by State government, whether compensated or uncompensated, who is involved in legislative action or administrative action.

§ 1304. Registration.

(a) General rule.—Unless excluded under section 1306 (relating to exemption from registration and reporting), a lobbyist or a principal must register with the commission within ten days of acting in any capacity as a lobbyist or principal. Registration shall be biennial and be coincident with the terms of the members of the House of Representatives.

(b) Principals.—

(1) A principal required to register shall file the following information with the commission:

- (i) Name.
- (ii) Permanent address.
- (iii) Daytime telephone number.
- (iv) Name and nature of business.
- (v) Name, registration number and acronyms of affiliated political action committees.
- (vi) Name and permanent business address of each individual who will for economic consideration engage in lobbying on the principal’s behalf.

(2) If an organization or association is a principal, the number of dues-paying members in the past calendar year shall also be disclosed.

(c) Lobbyist.—

(1) A lobbyist who is required to register shall file the following information with the commission:

(i) Name.

(ii) Permanent business address.

(iii) Daytime telephone number.

(iv) A recent picture of the lobbyist.

(v) Name, permanent business address and daytime telephone number of the principal the lobbyist represents.

(vi) Name, registration number and acronyms of affiliated political action committees.

(2) Each lobbyist shall file a separate registration statement for each principal he or she represents.

(d) Amendments.—

(1) When there is a change of information required for the registration statement under subsection (b)(1) or (c), an amended statement shall be filed with the commission within 14 days after the change occurs.

(2) When there is a change in information required for the registration statement under subsection (b)(2), an amended statement shall be filed with the commission within 14 days of the end of the year in which the change occurs.

(e) Termination.—A lobbyist or a principal may terminate registration by filing notice with the commission. Within 30 days of filing the notice, the lobbyist or principal shall file a termination report, which shall include all information required by section 1305 (relating to reporting) through the final day of lobbying activity. After a reasonable review of the termination report but not later than 90 days after receipt of the notice, the commission shall issue to the lobbyist or principal a letter stating that the registrant has terminated registration. The filing of notice or a termination report shall not affect the commission's authority to conduct investigations and hearings pursuant to section 1308(h) (relating to administration and enforcement). No lobbying may occur after the filing of notice unless the lobbying is pursuant to a separate registration statement which is filed with the commission and which, at the time of the lobbying, has not been terminated.

§ 1305. Reporting.

(a) General rule.—A lobbyist as required by subsection (b)(6) or a registered principal shall, under oath or affirmation, file quarterly expense reports with the commission.

(b) Content.—

(1) Reports must list the names of all lobbyists by whom the lobbying is conducted and the general subject matter or issue being lobbied.

(2) Expense reports must contain the following categories:

(i) A single aggregate good faith estimate of the total amount spent for personnel and office expenses related to lobbying. This subparagraph includes salaries and other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses for

those involved in lobbying. If compensation is to be reported by or for an individual or entity whose lobbying is incidental to regular employment, it shall be sufficient to report a good faith prorated estimate based on the value of the time devoted to lobbying. Reportable personnel costs include costs for lobbying staff, research and monitoring staff, consultants, lawyers, lobbyists, publications and public relations staff, technical staff and clerical and administrative support staff who engage in lobbying but are exempt from reporting under section 1306(6) (relating to exemption from registration and reporting). This subparagraph includes costs for offices, equipment and supplies utilized for lobbying.

(ii) A single aggregate good faith estimate of the total amount spent for direct communication.

(iii) The total costs for gifts, entertainment, meals, transportation, lodging and receptions given to or provided to State officials or employees or their immediate families.

(iv) A single aggregate good faith estimate of the total amount spent for indirect communication.

(3) In addition to reporting the totals required under this subsection, the expense report must identify, by name, position and each occurrence, a State official or employee who receives from a principal or lobbyist anything of value which must be included in the statement under section 1105(b)(6) or (7) (relating to statement of financial interests) as implemented by section 1105(d).

(i) For purposes of this chapter, the amount referred to in section 1105(b)(7) shall be considered an aggregate amount per year.

(ii) Written notice must be given to each public official or employee of inclusion in the expense report within seven days of the report's submission to the commission. Notice under this subparagraph shall include the information which will enable the public official or employee to comply with section 1105(b)(6) and (7). For purposes of this chapter and Chapter 11 (relating to ethics standards and financial disclosure), section 1105(b)(6) and (7) shall constitute mutually exclusive categories.

(iii) Regulations shall be promulgated under section 1310(c) (relating to filing fees; fund established; regulations) to define mutually exclusive categories under section 1105(b)(6) and (7) and to determine whether a thing of value is subject to disclosure under section 1105(b)(6) or (7).

(4) A lobbyist must sign the reports submitted by each principal represented to attest to the validity and accuracy to the best of the lobbyist's knowledge. A lobbyist may attach a statement to the report of any principal, describing the limits of the lobbyist's knowledge concerning the expenditures contained in the report.

(5) The expense report shall also include the name, permanent business address and daytime telephone number of any individual, firm, association,

corporation, partnership, business trust or business entity which contributed more than 10% of the total resources received by the principal during the reporting period.

(6) A lobbyist shall submit a separate report if, during the reporting period, the lobbyist engaged in lobbying which was not contained in the reports filed by the principal or principals represented by the lobbyist. A separate lobbyist report shall contain the identity of the principal for whom such lobbying was performed and shall contain all information required under paragraphs (2) and (3).

(7) A registered principal or registered lobbyist that attempts to influence an agency's preparing, bidding, entering into or approving a contract shall ensure that the related expenses are included under paragraph (2).

(c) Records retention.—A registrant shall retain all documents reasonably necessary to substantiate the reports to be made under this section for four years from the date of filing the subject report. Upon request by the Office of the Attorney General or the commission, these materials shall be made available for inspection within a reasonable period of time.

(d) Thresholds for reporting.—An expense report shall be filed when total expenses for lobbying exceed \$500 for a registered principal or a registered lobbyist in a reporting period. In a reporting period in which total expenses are \$500 or less, a statement to that effect shall be filed.

(e) Voluntary disclosure.—Nothing in this section shall prevent a principal or lobbyist from disclosing expenses in greater detail than required.

§ 1306. Exemption from registration and reporting.

The following individuals and activities shall be exempt from registration under section 1304 (relating to registration) and reporting under section 1305 (relating to reporting):

(1) An individual who limits lobbying activities to preparing testimony and testifying before a committee of the legislature or participating in an administrative proceeding of an agency.

(2) An individual who is an employee of an entity engaged in the business of publishing, broadcasting or televising while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(3) Any of the following:

(i) An individual who does not receive compensation, other than traveling expenses, for lobbying.

(ii) An individual whose compensation for lobbying, from all principals represented, does not exceed \$2,500 in the aggregate during any reporting period.

(iii) An individual who engages in lobbying on behalf of the individual's employer and where lobbying activity represents less than the equivalent of \$2,500 of the employee's time during any reporting period, based on an hourly proration of the employee's compensation.

(iv) A principal whose total expenses for lobbying purposes do not exceed \$2,500 during any reporting period.

(4) Any of the following:

(i) An elected State officer acting in an official capacity.

(ii) A State executive officer appointed by the Governor acting in an official capacity.

(iii) An elected or appointed official or employee of a political subdivision acting in an official capacity.

(iv) An employee of the Commonwealth or independent agency of the Commonwealth acting in an official capacity.

(5) An individual representing a bona fide church of which the individual is a member and the purpose of the lobbying is solely for the purpose of protecting the constitutional right to the free exercise of religion.

(6) An employee, who is not a registered lobbyist, of a corporation which:

(i) is registered as a principal under section 1304;

(ii) has one or more registered lobbyists; and

(iii) includes in its reports under section 1305 all of the employee's expenses related to lobbying.

§ 1307. Prohibited activities.

(a) Contingent compensation.—

(1) No one may compensate or incur an obligation to compensate any lobbyist, principal or individual to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(i) Passage or defeat, or approval or veto, of legislation.

(ii) Occurrence or nonoccurrence of an administrative action.

(2) No lobbyist, principal or individual may engage or agree to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(i) Passage or defeat, or approval or veto, of legislation.

(ii) Occurrence or nonoccurrence of an administrative action.

(b) Political committees.—A lobbyist may not serve as a treasurer or another officer for a candidate's political committee or a candidate's political action committee.

(c) Fee restrictions.—A lobbyist may not charge a fee or receive compensation or economic consideration based upon an understanding, either written or oral, that any part of the fee, compensation or economic consideration will be converted into a contribution to a candidate for public office or a political committee.

(d) Falsification.—No lobbyist or principal may, for the purpose of influencing legislative action or administrative action, transmit, utter or publish to any State official or employee any communication, knowing that such communication or any signature on the communication is false, forged, counterfeit or fictitious.

§ 1308. Administration and enforcement.

(a) Criminal enforcement.—If the commission believes an intentional violation of this chapter has been committed, it shall refer all relevant documents and other information to the Office of Attorney General.

(b) Attorney General.—In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General has the authority to investigate and prosecute a violation of this chapter.

(c) Advice and opinions.—The commission shall provide advice and opinions in accordance with procedures set forth in section 1107 (relating to powers and duties of commission) to a lobbyist, principal or State official or employee who has a question regarding compliance with this chapter. A principal, a lobbyist or an individual who acts in good faith based on the written advice or opinion of the commission shall not be held liable for a violation of this chapter.

(d) Public inspection and copying.—The commission shall make completed registration statements, expense reports, termination notices and termination reports which have been filed with the commission available for public inspection and provide copies of these documents at a price which shall not exceed the actual cost of copying. Documents that are maintained and reproducible in an electronic format shall be provided in that format upon request.

(e) Annual reporting.—The commission shall prepare and publish an annual report on lobbying activities in this Commonwealth. The commission shall also annually publish a listing of principals, identifying affiliated political action committees and lobbyists, and a listing of lobbyists, identifying affiliated political action committees and principals.

(f) Retention of records.—Completed registration statements, expense reports, termination notices and termination reports shall remain on file with the commission for a four-year period.

(g) Audits.—The commission shall initiate, by lottery, random annual audits of the registration statements and disclosure reports in sufficient number to ensure compliance with this chapter. The audit report and findings shall be confidential; however, the commission shall include the relevant portion of an audit as part of its findings of fact in a commission order which results from an investigation arising out of an audit.

(h) Investigation and hearings.—The commission, through its executive director, may initiate an investigation and hold a hearing concerning negligent conduct by a lobbyist or principal in accordance with sections 1107 and 1108 (relating to investigations by commission).

(i) Directory.—On or before May 1 of each odd-numbered year, the commission shall produce and distribute a directory of all registered lobbyists, including photographs. Copies of this directory shall be made available to the public at a price not to exceed the actual cost of production. All revenue received by the commission from the sales of this directory shall be deposited into the fund.

(j) Computer file.—The Legislative Data Processing Committee shall maintain updated registration statements, expense reports, termination notices and termination reports.

(k) Cost-of-living adjustment.—On a biennial basis commencing in January 2002, the commission shall review the threshold for reporting under section 1305(d) (relating to reporting) and the threshold for exemption under section 1306(3)(ii) through (iv) (relating to exemption from registration and reporting) and may increase these amounts to rates deemed reasonable for assuring appropriate disclosure. The commission shall publish any such adjusted threshold amounts in the Pennsylvania Bulletin by June 1, 2002, and every two years thereafter as necessary.

§ 1309. Penalties.

(a) Notice of noncompliance.—The commission shall issue a notice of noncompliance to any lobbyist, principal or individual that has failed to register or report as required by this chapter. The notice shall state the nature of the alleged noncompliance and the civil and criminal penalties for failure to register, failure to file or filing a report containing a false statement. The notice shall also advise of the right to a hearing before the commission and the time and manner in which to request a hearing.

(b) Hearing.—If a hearing is requested, the commission shall determine at the hearing whether the recipient of the notice is required to register or report under this chapter, whether the failure to register or report was negligent and, if the failure was negligent, the amount of the civil penalty to be imposed. If the commission finds that the failure to register or report was intentional, it shall refer the matter to the Attorney General for investigation and prosecution. Hearings under this subsection shall be conducted by the commission in accordance with sections 1107(14) (relating to powers and duties of commission) and 1108(e) (relating to investigations by commission).

(c) Negligent failure to register or report.—Negligent failure to register or report as required by this chapter is punishable by a civil penalty not exceeding \$50 for each late day. After a hearing under subsection (b), in the case of negligent failure to register or report, the commission may, upon the majority vote of its members, levy a civil penalty as provided for in this subsection. The total amount of the civil penalty levied shall not be limited by any other provision of law. The commission shall have standing to apply to Commonwealth Court to seek enforcement of an order imposing a civil penalty under this section.

(d) Failure to comply after notice.—After notice of noncompliance and after a hearing, if one is requested, a lobbyist or principal who fails to comply with the requirements of this chapter may be prohibited from lobbying for up to five years. The prohibition shall be imposed as provided by subsection (e)(4).

(e) Intentional violations.—

(1) Any lobbyist, principal or individual that intentionally fails to register or report as required by this chapter commits a misdemeanor of the second degree.

(2) A registrant that files a report under this chapter with knowledge that the report contains a false statement commits a misdemeanor of the second degree.

(3) Except as set forth in paragraph (1) or (2), any lobbyist, principal or individual that intentionally violates this chapter commits a misdemeanor of the third degree.

(4) In addition to the criminal penalties imposed by this subsection, the commission may prohibit a lobbyist or principal from lobbying for up to five years for doing an act which constitutes an offense under this subsection. No criminal prosecution or conviction shall be required for the imposition of the prohibition authorized by this paragraph. The prohibition under this paragraph shall not be imposed unless the defendant has been afforded the opportunity for a hearing, which shall be conducted by the commission in accordance with sections 1107(14) and 1108(e).

§ 1310. Filing fees; fund established; regulations.

(a) Filing fees.—A principal or lobbyist required to be registered under this chapter shall pay a biennial filing fee of \$100 to the commission.

(b) Fund established.—All money received from filing fees under subsection (a) shall be deposited in a restricted receipts account to be known as the Lobbying Disclosure Fund. The money deposited in the fund is hereby appropriated to the commission as a continuing appropriation for the exclusive purpose of carrying out the provisions of this chapter.

(c) Regulations.—A committee comprised of the Secretary of the Senate, the Chief Clerk of the House of Representatives, the chairman of the State Ethics Commission, the Attorney General, the Secretary of the Commonwealth, the Auditor General and the General Counsel, or their designees, shall have continuing authority to promulgate regulations necessary to carry out this chapter. The chairman of the commission shall be designated as the chairman of the committee. The initial proposed regulations shall be submitted within 180 days of the effective date of this section to the Independent Regulatory Review Commission under section 5 of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act. Any meeting at which the committee plans to approve proposed regulations shall be held in accordance with Chapter 7 (relating to open meetings). The committee shall also prepare and publish a manual setting forth guidelines for accounting and reporting. The regulations and manual shall be drafted to accommodate the use of computerized recordkeeping, electronic filing of the reports provided for under this chapter and retention of registration statements and reports provided for under this chapter by electronic means. The Department of State shall provide sufficient staff and other administrative support to assist the committee.

§ 1311. Severability.

(a) General rule.—Except as provided in subsection (b):

(1) The provisions of this chapter are severable.

(2) If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions

or applications of this chapter which can be given effect without the invalid provision or application.

(b) Practice of law.—If any provision of this chapter or its application to any person or circumstance is held invalid on the basis of improper regulation of the practice of law, the remaining provisions or applications of this chapter are void.

Section 2. (a) Except as otherwise specifically provided in this act, it is the intention of this act to continue existing law.

(b) All litigation, hearings, investigations and other proceedings whatsoever under any statute repealed by this act shall continue and remain in full force and effect and may be completed under the provisions of this act. All orders, regulations or rules made under any statute repealed by this act and in full force and effect upon the effective date of such repeal shall remain in full force and effect until revoked, vacated or modified under the provisions of this act. All existing contracts and obligations entered into under any statute repealed by this act shall remain in full force and effect.

(c) The members of the State Ethics Commission shall continue in office until their terms of office expire in accordance with 65 Pa.C.S. Ch. 11 and shall exercise the powers and perform the duties prescribed in Chapter 11.

(d) The appropriations to the State Ethics Commission established under the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law, shall continue and remain in full force and effect for use by the State Ethics Commission continued under 65 Pa.C.S. Ch. 11.

Section 3. The sum of \$165,000 is hereby appropriated to the State Ethics Commission for the fiscal year July 1, 1998, to June 30, 1999, to carry out the provisions of 65 Pa.C.S. Ch. 13.

Section 4. (a) The provisions of 65 Pa.C.S. § 714.1 shall be applicable to all legal challenges filed under 65 Pa.C.S. Ch. 7 on or after the effective date of that chapter.

(b) The provision for attorney fees in section 13 of the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act, shall continue to apply to all legal challenges filed under that act before the effective date of 65 Pa.C.S. Ch. 7.

(c) The provisions of 65 Pa.C.S. §§ 1103(d) and (e) and 1105(b)(6) and (7) shall not apply to any matter that occurred before June 26, 1989.

Section 5. Except where specifically revised by this act, Chapters 7, 11 and 13 shall be a codification of existing law.

Section 6. (a) The following acts and parts of acts are repealed:

(1) Act of September 30, 1961 (P.L.1778, No.712), known as the Lobbying Registration and Regulation Act.

(2) Sections 1 through 9 and 10.1 through 14 of the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

(3) Act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.

(b) The following repeals deal with the State Ethics Commission:

(1) Section 8 of the act of June 26, 1989 (P.L.26, No.9), 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; and making an appropriation," is repealed.

(2) All other provisions of law are repealed insofar as they limit the existence of the State Ethics Commission.

(c) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 7. This act is intended to provide for public confidence in government by consolidating and revising existing laws relating to open meetings, ethical standards and financial disclosure and lobbying regulation and disclosure.

Section 8. This act shall take effect as follows:

(1) Except as set forth in paragraphs (2) and (3), the addition of 65 Pa.C.S. Ch. 13 shall take effect August 1, 1999.

(2) The addition of 65 Pa.C.S. §§ 1305(b)(3)(iii) and 1310(c) shall take effect immediately.

(3) The addition of 65 Pa.C.S. § 1305(b)(3)(i)¹ and (ii) shall take effect on the earlier of:

(i) the effective date of the regulations promulgated under 65 Pa.C.S. § 1305(b)(3)(iii); or

(ii) August 1, 1999.

(4) Section 3 of this act shall take effect immediately.

(5) Section 6(a)(1) of this act shall take effect August 1, 1999.

(6) This section shall take effect immediately.

(7) The remainder of this act shall take effect in 60 days.

APPROVED—The 15th day of October, A.D. 1998.

THOMAS J. RIDGE

¹"§ 1305(3)(i)" in enrolled bill.