



House of Representatives

General Assembly

File No. 35

February Session, 2004

Substitute House Bill No. 5021

House of Representatives, March 11, 2004

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT MAKING CERTAIN REFORMS UNDER THE STATE CODES OF ETHICS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-81 of the general statutes is amended by adding
2 subsection (c) as follows (*Effective July 1, 2004*):

3 (NEW) (c) The commission may enter into contractual agreements,
4 as may be necessary for the discharge of its duties, within the limits of
5 its appropriated funds and in accordance with established procedures.

6 Sec. 2. Subsection (d) of section 1-82 of the general statutes is
7 repealed and the following is substituted in lieu thereof (*Effective July*
8 *1, 2004*):

9 (d) (1) No complaint may be made against a state employee under
10 this section except within [three] five years next after the violation
11 alleged in the complaint has been committed. (2) No complaint may be

12 made against a public official under this section more than five years
13 after the end of a respondent's status as a public official. Any
14 complaint made within such time limit against a public official may
15 relate to any period of time that such respondent served as a public
16 official.

17 Sec. 3. Subsection (i) of section 1-84 of the general statutes, as
18 amended by section 146 of public act 03-6 of the June 30 special
19 session, is repealed and the following is substituted in lieu thereof
20 (*Effective July 1, 2004*):

21 (i) No public official or state employee or member of [his] the
22 official or employee's immediate family or a business with which he is
23 associated shall enter into any contract with the state, valued at one
24 hundred dollars or more, other than a contract of employment as a
25 state employee or pursuant to a court appointment, unless the contract
26 has been awarded through an open and public process, including prior
27 public offer and subsequent public disclosure of all proposals
28 considered and the contract awarded. In no event shall an executive
29 head of an agency, as defined in section 4-166, including a
30 commissioner of a department, or an executive head of a quasi-public
31 agency, as defined in section 1-79, or [his] the executive head's
32 immediate family or a business with which he is associated enter into
33 any contract with that agency or quasi-public agency. Nothing in this
34 subsection shall be construed as applying to any public official who is
35 appointed as a member of the executive branch or as a member or
36 director of a quasi-public agency and who receives no compensation
37 other than per diem payments or reimbursement for actual or
38 necessary expenses, or both, incurred in the performance of [his] the
39 public official's duties unless such public official has authority or
40 control over the subject matter of the contract. Any contract made in
41 violation of this subsection shall be voidable by a court of competent
42 jurisdiction if the suit is commenced within [ninety] one hundred
43 eighty days of the making of the contract.

44 Sec. 4. Section 1-84 of the general statutes, as amended by section

45 146 of public act 03-6 of the June 30 special session, is amended by
46 adding subsection (p) as follows (*Effective July 1, 2004*):

47 (NEW) (p) No public official or state employee, in such official's or
48 employee's official capacity, shall knowingly or recklessly, counsel,
49 authorize or otherwise sanction action that violates any provision of
50 this part.

51 Sec. 5. Subsections (f) and (g) of section 1-84b of the general statutes,
52 as amended by section 146 of public act 03-6 of the June 30 special
53 session, are repealed and the following is substituted in lieu thereof
54 (*Effective July 1, 2004*):

55 (f) (1) No former public official or state employee [(1)] (A) who
56 participated substantially in the negotiation or award of [(A)] (i) a state
57 contract valued at an amount of fifty thousand dollars or more, or [(B)]
58 (ii) a written agreement for the approval of a payroll deduction slot
59 described in section 3-123g, or [(2)] (B) who supervised the negotiation
60 or award of such a contract or agreement, shall accept employment
61 with a party to the contract, [or] agreement or negotiation other than
62 the state for a period of one year after [his] the public official's or state
63 employee's resignation from [his] state office or [position if his] state
64 employment if such resignation occurs less than one year after [the
65 contract or agreement is signed] the earlier of (i) the date the contract
66 or agreement is signed, or (ii) the date the official or employee ceases
67 to supervise, or participate substantially in, the negotiation or award of
68 the contract or agreement, as determined by regulations which the
69 commission shall adopt, in accordance with chapter 54.

70 (2) No party to the contract may employ a public official or state
71 employee if such employment would violate subdivision (1) of this
72 subsection.

73 (g) (1) No member or director of a quasi-public agency who
74 participates substantially in the negotiation or award of a contract
75 valued at an amount of fifty thousand dollars or more, or who
76 supervised the negotiation or award of such a contract, shall seek,

77 accept, or hold employment with a party to the contract or negotiation
78 for a period of one year after [the signing of the contract] the earlier of
79 (A) the date the contract is signed, or (B) the date the member or
80 director ceases to participate substantially in the negotiation or award
81 of the contract, as determined by regulations which the commission
82 shall adopt, in accordance with chapter 54.

83 (2) No party to the contract may employ a member or director if
84 such employment would violate subdivision (1) of this subsection.

85 Sec. 6. Subsections (a) and (b) of section 1-88 of the general statutes
86 are repealed and the following is substituted in lieu thereof (*Effective*
87 *July 1, 2004*):

88 (a) The commission, upon a finding made pursuant to section 1-82,
89 as amended by this act, that there has been a violation of any provision
90 of this part, shall have the authority to order the violator to do any or
91 all of the following: (1) Cease and desist the violation of this part; (2)
92 file any report, statement or other information as required by this part;
93 and (3) pay a civil penalty of not more than [two] ten thousand dollars
94 for each violation of this part.

95 (b) Notwithstanding the provisions of subsection (a) of this section,
96 the commission may, after a hearing conducted in accordance with
97 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
98 its members, impose a civil penalty not to exceed ten dollars per day
99 upon any individual who fails to file any report, statement or other
100 information as required by this part. Each distinct violation of this
101 subsection shall be a separate offense and in case of a continued
102 violation, each day thereof shall be deemed a separate offense. In no
103 event shall the aggregate penalty imposed for such failure to file
104 exceed [two] ten thousand dollars.

105 Sec. 7. Subsection (a) of section 1-89 of the general statutes is
106 repealed and the following is substituted in lieu thereof (*Effective July*
107 *1, 2004*):

108 (a) Any person who intentionally violates any provision of this part
109 shall be [imprisoned for a term not to exceed one year or shall be fined
110 an amount not to exceed two thousand dollars, or both] guilty of a
111 class D felony, provided no person may be found guilty of a violation
112 of subsection (f) or (g) of section 1-84, as amended, and bribery or bribe
113 receiving under section 53a-147 or 53a-148, as amended, upon the
114 same incident, but such person may be charged and prosecuted for all
115 or any of such offenses upon the same information.

116 Sec. 8. Subsection (d) of section 1-93 of the general statutes is
117 repealed and the following is substituted in lieu thereof (*Effective July*
118 *1, 2004*):

119 (d) No complaint may be made under this section except within
120 [three] five years next after the violation alleged in the complaint has
121 been committed.

122 Sec. 9. Subsections (a) and (b) of section 1-99 of the general statutes
123 are repealed and the following is substituted in lieu thereof (*Effective*
124 *July 1, 2004*):

125 (a) The commission, upon a finding made pursuant to section 1-93,
126 as amended by this act, that there has been a violation of any provision
127 of this part, shall have the authority to order the violator to do any or
128 all of the following: (1) Cease and desist the violation of this part; (2)
129 file any report, statement or other information as required by this part;
130 or (3) pay a civil penalty of not more than [two] ten thousand dollars
131 for each violation of this part. The commission may prohibit any
132 person who intentionally violates any provision of this part from
133 engaging in the profession of lobbyist for a period of not more than
134 two years. The commission may impose a civil penalty on any person
135 who knowingly enters into a contingent fee agreement in violation of
136 subsection (b) of section 1-97 or terminates a lobbying contract as the
137 result of the outcome of an administrative or legislative action. The
138 civil penalty shall be equal to the amount of compensation which the
139 registrant was required to be paid under the agreement.

140 (b) Notwithstanding the provisions of subsection (a) of this section,
 141 the commission may, after a hearing conducted in accordance with
 142 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
 143 its members, impose a civil penalty not to exceed ten dollars per day
 144 upon any registrant who fails to file any report, statement or other
 145 information as required by this part. Each distinct violation of this
 146 subsection shall be a separate offense and, in case of a continued
 147 violation, each day thereof shall be deemed a separate offense. In no
 148 event shall the aggregate penalty imposed for such failure to file
 149 exceed [two] ten thousand dollars.

150 Sec. 10. Subsection (a) of section 1-100 of the general statutes is
 151 repealed and the following is substituted in lieu thereof (*Effective July*
 152 *1, 2004*):

153 (a) Any person who intentionally violates any provision of this part
 154 shall be [imprisoned for a term not to exceed one year or shall be fined
 155 an amount not to exceed two thousand dollars, or both] guilty of a
 156 class D felony.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>July 1, 2004</i>
Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Ethics Com.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill: (1) extends the review period from 3 to 5 years for the statute of limitations for the State Ethics Commission to investigate ethics violations, and (2) raises from \$2,000 to \$10,000, the civil penalty limits for each ethics violation. It is anticipated that the Commission can handle the workload increase within its normal budgetary resources.

Data on the number of ethics fines were assessed for the prior 2 fiscal years. A fine can consist of several violations. In FY 02, \$59,610 was collected for 10 fines and in FY 03, \$19,400 was collected for 6 fines. To the degree that these changes increase the likelihood that penalties for violations are assessed and at a potentially higher fine, there will be a revenue gain to the General Fund.

OLR Bill Analysis

sHB 5021

AN ACT MAKING CERTAIN REFORMS UNDER THE STATE CODES OF ETHICS**SUMMARY:**

This bill makes several changes the State Codes of Ethics. It:

1. increases the statute of limitation for filing complaints of ethics violations with the State Ethics Commission;
2. increases the penalties for ethics code violations;
3. doubles the time, from 90 to 180 days, the state has to bring an action to void a contract entered in violation of the code;
4. prohibits public officials and state employees, acting in their official capacity, from knowingly or recklessly advising or approving actions that violate the code;
5. expands the post-employment contract restrictions applicable to certain public officials, state employees, and quasi-public agency directors and members; and
6. permits the commission to contract for services that are necessary to complete its duties, within available appropriations and in compliance with established procedures.

EFFECTIVE DATE: July 1, 2004

STATUTE OF LIMITATION

The bill establishes two different statutes of limitations for filing complaints of ethics violations with the State Ethics Commission. For state employees and lobbyists, it increases the filing deadline from three to five years after the violation occurs. For public officials, it increases the deadline from three years after the violation occurs to five years after the official leaves office. The bill specifies that complaints filed against officials within this time period may allege violations that occurred at any time during the official's term in office.

PENALTIES FOR ETHICS CODE VIOLATIONS

The bill increases the maximum civil penalty for ethics code violations from \$2,000 to \$10,000. It raises the penalty and criminal classification for intentional code violations from a class A misdemeanor, which is punishable by up to one year in prison, a \$2,000 fine, or both, to a class D felony, which is punishable by up to five years in prison, a \$5,000 fine, or both. The commission retains the authority to order violators of the code to discontinue the violation.

POST-EMPLOYMENT RESTRICTIONS

The law sets a time period during which former public officials, state employees, and directors and members of quasi-public agencies cannot accept a job with a party to a contract or negotiation, other than the state. They cannot accept the job within one year after they resign, if they resign less than a year after the contract or agreement is signed and if:

1. they supervised or substantially participated in the negotiation or award of the contract or agreement and
2. the contract was worth \$50,000 or more or the agreement concerns state payroll check deductions for products or services.

The bill expands the prohibition to include (1) parties to the negotiations for a covered contract or agreement who do not become a party to it and (2) former public officials and state employees who negotiate a covered contract or agreement but resign before it is signed.

The bill prohibits former officials and employees from taking a job within one year of resigning from state service if the resignation occurs less than one year after (1) the contract is signed or (2) they stopped substantially participating in the negotiations, whichever occurs sooner. It prohibits quasi-public agency directors and members from seeking or taking a job within one year after they cease substantial participation in the negotiations or the contract is signed, whichever occurs first.

The bill prohibits parties to the contract from hiring public officials, state employees, and directors and members of quasi-public agencies if to do so would violate the post-employment restriction.

Lastly, the bill requires the State Ethics Commission to determine, in regulations, when a person ceases to participate substantially.

BACKGROUND

Voidable State Contracts

The state has 90 days to void any state contract entered into with a public official or state employee, a member of their immediate family, or any business with which they are associated that is (1) valued at \$100 or more and (2) not won through an open and public bidding process. The law does not apply to public officials who receive only a per diem payment or expense reimbursements, or both.

Agency Contracting Procedures

Agencies may negotiate personal service contracts below \$3,000. They must request proposals for contracts above this threshold, which the Department of Administrative Services, Office of the Attorney General, and Office of Policy and Management must review and sign.

Agencies may contract for supplies and materials costing less than \$1,000 on the open market. Over this threshold, they must get quotes or advertise.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 0