



General Assembly

February Session, 2004

Amendment

LCO No. 3821

HB0502103821HDO

Offered by:

REP. LYONS, 146th Dist.

REP. AMANN, 118th Dist.

REP. O'ROURKE, 32nd Dist.

To: Subst. House Bill No. 5021

File No. 602

Cal. No. 71

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) Any public official or
4 state employee who establishes a legal defense fund, or for whom a
5 legal defense fund has been established, shall file a report on said fund
6 with the State Ethics Commission not later than the tenth day of
7 January, April, July and October. Each such report shall include the
8 following information for the preceding calendar quarter: (1) The
9 names of the directors and officers of the fund, (2) the name of the
10 depository institution for the fund, (3) an itemized accounting of each
11 contribution to the fund, including the full name and complete address
12 of each contributor and the amount of the contribution, and (4) an
13 itemized accounting of each expenditure, including the full name and
14 complete address of each payee and the amount and purpose of the

15 expenditure. The public official or state employee shall sign each such
16 report under penalty of false statement.

17 (b) (1) In addition to the prohibitions on gifts under subsections (j)
18 and (m) of section 1-84 of the general statutes, as amended, and
19 subsection (a) of section 1-97 of the general statutes, no public official
20 or state employee shall accept, directly or indirectly, any contribution
21 to a legal defense fund established by or for the public official or state
22 employee, from (A) a member of the immediate family of any person
23 who is prohibited from giving a gift under subsection (j) or (m) of
24 section 1-84 of the general statutes, as amended, or subsection (a) of
25 section 1-97 of the general statutes, or (B) a person who is appointed by
26 said public official or state employee to serve on a paid, full-time basis.
27 No person described in subparagraph (A) or (B) of this subdivision
28 shall make a contribution to such a legal defense fund, and no such
29 person or any person prohibited from making a gift under subsection
30 (j) or (m) of section 1-84 of the general statutes, as amended, or
31 subsection (a) of section 1-97 of the general statutes shall solicit a
32 contribution for such a legal defense fund.

33 (2) A public official or state employee may accept a contribution or
34 contributions to a legal defense fund established by or for the public
35 official or state employee from any other person, provided the total
36 amount of such contributions from any such person in any calendar
37 year shall not exceed one thousand dollars. No such person shall make
38 a contribution or contributions to said legal defense fund exceeding
39 one thousand dollars in any calendar year. The provisions of this
40 subdivision shall not apply in 2004, to any person who has made a
41 contribution or contributions to a legal defense fund exceeding one
42 thousand dollars in 2004, before the effective date of this section,
43 provided said legal defense fund shall not accept any additional
44 contributions from such person in 2004, and such person shall not
45 make any additional contributions to said fund in 2004.

46 (3) Notwithstanding the provisions of subdivision (2) of this
47 subsection, a public official or state employee may accept a

48 contribution or contributions, in any amount, to a legal defense fund
49 established by or for the public official or state employee from a
50 relative of the public official or state employee or a person whose
51 relationship with the public official or state employee is not dependent
52 on the official's or employee's status as a public official or state
53 employee. The factors that the State Ethics Commission shall consider
54 in determining whether a person's relationship is so dependent shall
55 include, but not be limited to, whether the person may be able to
56 benefit from the exercise of official authority of the public official or
57 state employee and whether the person made gifts to the public official
58 or state employee before the official or employee began serving in such
59 office or position.

60 Sec. 2. Section 1-79 of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective from passage*):

62 The following terms, when used in this part and section 1 of this act,
63 shall have the following meanings unless the context otherwise
64 requires:

65 (a) "Blind trust" means a trust established by a public official or state
66 employee or member of his immediate family for the purpose of
67 divestiture of all control and knowledge of assets.

68 (b) "Business with which he is associated" means any sole
69 proprietorship, partnership, firm, corporation, trust or other entity
70 through which business for profit or not for profit is conducted in
71 which the public official or state employee or member of his
72 immediate family is a director, officer, owner, limited or general
73 partner, beneficiary of a trust or holder of stock constituting five per
74 cent or more of the total outstanding stock of any class, provided, a
75 public official or state employee, or member of his immediate family,
76 shall not be deemed to be associated with a not for profit entity solely
77 by virtue of the fact that the public official or state employee or
78 member of his immediate family is an unpaid director or officer of the
79 not for profit entity. "Officer" refers only to the president, executive or

80 senior vice president or treasurer of such business.

81 (c) "Candidate for public office" means any individual who has filed
82 a declaration of candidacy or a petition to appear on the ballot for
83 election as a public official, or who has raised or expended money in
84 furtherance of such candidacy, or who has been nominated for
85 appointment to serve as a public official, but shall not include a
86 candidate for the office of senator or representative in Congress.

87 (d) "Commission" means the State Ethics Commission established in
88 section 1-80, as amended.

89 (e) "Gift" means anything of value, which is directly and personally
90 received, unless consideration of equal or greater value is given in
91 return. "Gift" shall not include:

92 (1) A political contribution otherwise reported as required by law or
93 a donation or payment as described in subdivision (9) or (10) of
94 subsection (b) of section 9-333b;

95 (2) Services provided by persons volunteering their time;

96 (3) A commercially reasonable loan made on terms not more
97 favorable than loans made in the ordinary course of business;

98 (4) A gift received from (A) an individual's spouse, fiance or fiancée,
99 (B) the parent, brother or sister of such spouse or such individual, or
100 (C) the child of such individual or the spouse of such child;

101 (5) Goods or services (A) which are provided to the state (i) for use
102 on state property, or (ii) to support an event or the participation by a
103 public official or state employee at an event, and (B) which facilitate
104 state action or functions. As used in this subdivision, "state property"
105 means (i) property owned by the state, or (ii) property leased to an
106 agency in the Executive or Judicial Department of the state;

107 (6) A certificate, plaque or other ceremonial award costing less than
108 one hundred dollars;

109 (7) A rebate, discount or promotional item available to the general
110 public;

111 (8) Printed or recorded informational material germane to state
112 action or functions;

113 (9) Food or beverage or both, costing less than fifty dollars in the
114 aggregate per recipient in a calendar year, and consumed on an
115 occasion or occasions at which the person paying, directly or
116 indirectly, for the food or beverage, or his representative, is in
117 attendance;

118 (10) Food or beverage or both, costing less than fifty dollars per
119 person and consumed at a publicly noticed legislative reception to
120 which all members of the General Assembly are invited and which is
121 hosted not more than once in any calendar year by a lobbyist or
122 business organization. For the purposes of such limit, (A) a reception
123 hosted by a lobbyist who is an individual shall be deemed to have also
124 been hosted by the business organization which he owns or is
125 employed by, and (B) a reception hosted by a business organization
126 shall be deemed to have also been hosted by all owners and employees
127 of the business organization who are lobbyists. In making the
128 calculation for the purposes of such fifty-dollar limit, the donor shall
129 divide the amount spent on food and beverage by the number of
130 persons whom the donor reasonably expects to attend the reception;

131 (11) Food or beverage or both, costing less than fifty dollars per
132 person and consumed at a publicly noticed reception to which all
133 members of the General Assembly from a region of the state are
134 invited and which is hosted not more than once in any calendar year
135 by a lobbyist or business organization. For the purposes of such limit,
136 (A) a reception hosted by a lobbyist who is an individual shall be
137 deemed to have also been hosted by the business organization which
138 he owns or is employed by, and (B) a reception hosted by a business
139 organization shall be deemed to have also been hosted by all owners
140 and employees of the business organization who are lobbyists. In

141 making the calculation for the purposes of such fifty-dollar limit, the
142 donor shall divide the amount spent on food and beverage by the
143 number of persons whom the donor reasonably expects to attend the
144 reception. As used in this subdivision, "region of the state" means the
145 established geographic service area of the organization hosting the
146 reception;

147 (12) A gift, including but not limited to, food or beverage or both,
148 provided by an individual for the celebration of a major life event;

149 (13) Gifts costing less than one hundred dollars in the aggregate or
150 food or beverage provided at a hospitality suite at a meeting or
151 conference of an interstate legislative association, by a person who is
152 not a registrant or is not doing business with the state of Connecticut;

153 (14) Admission to a charitable or civic event, including food and
154 beverage provided at such event, but excluding lodging or travel
155 expenses, at which a public official or state employee participates in
156 his official capacity, provided such admission is provided by the
157 primary sponsoring entity;

158 (15) Anything of value provided by an employer of (A) a public
159 official, (B) a state employee, or (C) a spouse of a public official or state
160 employee, to such official, employee or spouse, provided such benefits
161 are customarily and ordinarily provided to others in similar
162 circumstances; or

163 (16) Anything having a value of not more than ten dollars, provided
164 the aggregate value of all things provided by a donor to a recipient
165 under this subdivision in any calendar year shall not exceed fifty
166 dollars.

167 (f) "Immediate family" means any spouse, children or dependent
168 relatives who reside in the individual's household.

169 (g) "Individual" means a natural person.

170 (h) "Member of an advisory board" means any individual (1)

171 appointed by a public official as an advisor or consultant or member of
172 a committee, commission or council established to advise, recommend
173 or consult with a public official or branch of government or committee
174 thereof, (2) who receives no public funds other than per diem
175 payments or reimbursement for his actual and necessary expenses
176 incurred in the performance of his official duties, and (3) who has no
177 authority to expend any public funds or to exercise the power of the
178 state.

179 (i) "Person" means an individual, sole proprietorship, trust,
180 corporation, limited liability company, union, association, firm,
181 partnership, committee, club or other organization or group of
182 persons.

183 (j) "Political contribution" has the same meaning as in section 9-333b
184 except that for purposes of this part, the provisions of subsection (b) of
185 that section shall not apply.

186 (k) "Public official" means any state-wide elected officer, any
187 member or member-elect of the General Assembly, any person
188 appointed to any office of the legislative, judicial or executive branch
189 of state government by the Governor or an appointee of the Governor,
190 with or without the advice and consent of the General Assembly, any
191 public member or representative of the teachers' unions or state
192 employees' unions appointed to the Investment Advisory Council
193 pursuant to subsection (a) of section 3-13b, any person appointed or
194 elected by the General Assembly or by any member of either house
195 thereof, and any member or director of a quasi-public agency, but shall
196 not include a member of an advisory board, a judge of any court either
197 elected or appointed or a senator or representative in Congress.

198 (l) "Quasi-public agency" means the Connecticut Development
199 Authority, Connecticut Innovations, Incorporated, Connecticut Health
200 and Education Facilities Authority, Connecticut Higher Education
201 Supplemental Loan Authority, Connecticut Housing Finance
202 Authority, Connecticut Housing Authority, Connecticut Resources

203 Recovery Authority, Connecticut Hazardous Waste Management
204 Service, Lower Fairfield County Convention Center Authority, Capital
205 City Economic Development Authority and Connecticut Port
206 Authority.

207 (m) "State employee" means any employee in the executive,
208 legislative or judicial branch of state government, whether in the
209 classified or unclassified service and whether full or part-time, and any
210 employee of a quasi-public agency, but shall not include a judge of any
211 court, either elected or appointed.

212 (n) "Trust" means a trust in which any public official or state
213 employee or member of his immediate family has a present or future
214 interest which exceeds ten per cent of the value of the trust or exceeds
215 fifty thousand dollars, whichever is less, but shall not include blind
216 trusts.

217 (o) "Business organization" means a sole proprietorship,
218 corporation, limited liability company, association, firm or partnership,
219 other than a client lobbyist, which is owned by, or employs, one or
220 more individual lobbyists.

221 (p) "Client lobbyist" means a person on behalf of whom lobbying
222 takes place and who makes expenditures for lobbying and in
223 furtherance of lobbying.

224 (q) "Necessary expenses" means a public official's or state
225 employee's expenses for an article, appearance or speech or for
226 participation at an event, in his official capacity, which shall be limited
227 to necessary travel expenses, lodging for the nights before, of and after
228 the appearance, speech or event, meals and any related conference or
229 seminar registration fees.

230 (r) "Lobbyist" and "registrant" shall be construed as defined in
231 section 1-91.

232 (s) "Legal defense fund" means a fund established for the payment

233 of legal expenses of a public official or state employee incurred as a
234 result of defending himself or herself in an administrative, civil,
235 criminal or constitutional proceeding concerning matters related to the
236 official's or employee's service or employment with the state or a
237 quasi-public agency.

238 Sec. 3. Section 1-82 of the general statutes is repealed and the
239 following is substituted in lieu thereof (*Effective from passage*):

240 (a) (1) Upon the complaint of any person on a form prescribed by
241 the commission, signed under penalty of false statement, or upon its
242 own complaint, the commission shall investigate any alleged violation
243 of this part or section 1 of this act. Not later than five days after the
244 receipt or issuance of such complaint, the commission shall provide
245 notice of such receipt or issuance and a copy of the complaint by
246 registered or certified mail to any respondent against whom such
247 complaint is filed and shall provide notice of the receipt of such
248 complaint to the complainant. When the commission undertakes an
249 evaluation of a possible violation of this part or section 1 of this act
250 prior to the filing of a complaint by the commission, the subject of the
251 evaluation shall be notified within five business days after a
252 commission staff member's first contact with a third party concerning
253 the matter.

254 (2) In the conduct of its investigation of an alleged violation of this
255 part, the commission shall have the power to hold hearings, administer
256 oaths, examine witnesses, receive oral and documentary evidence,
257 subpoena witnesses under procedural rules adopted by the
258 commission as regulations in accordance with the provisions of
259 chapter 54 to compel attendance before the commission and to require
260 the production for examination by the commission of any books and
261 papers which the commission deems relevant in any matter under
262 investigation or in question. In the exercise of such powers, the
263 commission may use the services of the state police, who shall provide
264 the same upon the commission's request. The commission shall make a
265 record of all proceedings conducted pursuant to this subsection. Any

266 witness summoned before the commission shall receive the witness fee
267 paid to witnesses in the courts of this state. During the investigation
268 the respondent shall have the right to appear and be heard and to offer
269 any information which may tend to clear him of probable cause to
270 believe he has violated any provision of this part or section 1 of this
271 act. The respondent shall also have the right to be represented by legal
272 counsel and to examine and cross-examine witnesses. Not later than
273 ten days prior to the commencement of any hearing conducted
274 pursuant to this subsection, the commission shall provide the
275 respondent with a list of its intended witnesses. The commission shall
276 make no finding that there is probable cause to believe the respondent
277 is in violation of any provision of this part or section 1 of this act
278 except upon the concurring vote of four of its members.

279 (b) If a preliminary investigation indicates that probable cause exists
280 for the violation of a provision of this part or section 1 of this act, the
281 commission shall initiate hearings to determine whether there has been
282 a violation of this part or section 1 of this act. A judge trial referee, who
283 shall be assigned by the Chief Court Administrator and who shall be
284 compensated in accordance with section 52-434 out of funds available
285 to the commission, shall preside over such hearing and shall rule on all
286 matters concerning the application of the rules of evidence, which shall
287 be the same as in judicial proceedings. The trial referee shall have no
288 vote in any decision of the commission. All hearings of the commission
289 held pursuant to this subsection shall be open. At such hearing the
290 commission shall have the same powers as under subsection (a) of this
291 section and the respondent shall have the right to be represented by
292 legal counsel, the right to compel attendance of witnesses and the
293 production of books, documents, records and papers and to examine
294 and cross-examine witnesses. Not later than ten days prior to the
295 commencement of any hearing conducted pursuant to this subsection,
296 the commission shall provide the respondent with a list of its intended
297 witnesses. The judge trial referee shall, while engaged in the discharge
298 of his duties as provided in this subsection, have the same authority as
299 is provided in section 51-35 over witnesses who refuse to obey a

300 subpoena or to testify with respect to any matter upon which such
301 witness may be lawfully interrogated, and may commit any such
302 witness for contempt for a period no longer than thirty days. The
303 commission shall make a record of all proceedings pursuant to this
304 subsection. The commission shall find no person in violation of any
305 provision of this part or section 1 of this act except upon the
306 concurring vote of five of its members. Not later than fifteen days after
307 the public hearing conducted in accordance with this subsection, the
308 commission shall publish its finding and a memorandum of the
309 reasons therefor. Such finding and memorandum shall be deemed to
310 be the final decision of the commission on the matter for the purposes
311 of chapter 54. The respondent, if aggrieved by the finding and
312 memorandum, may appeal therefrom to the Superior Court in
313 accordance with the provisions of section 4-183.

314 (c) If the commission finds, after a hearing pursuant to this section,
315 that there is no probable cause to believe that a public official or state
316 employee has violated a provision of this part or section 1 of this act or
317 that a public official or state employee has not violated any such
318 provision, or if a court of competent jurisdiction overturns a finding by
319 the commission of a violation by such a respondent, the state shall pay
320 the reasonable legal expenses of the respondent as determined by the
321 Attorney General or by the court if appropriate. If any complaint
322 brought under the provisions of this part or section 1 of this act is
323 made with the knowledge that it is made without foundation in fact,
324 the respondent shall have a cause of action against the complainant for
325 double the amount of damage caused thereby and if the respondent
326 prevails in such action, he may be awarded by the court the costs of
327 such action together with reasonable attorneys' fees.

328 (d) No complaint may be made under this section except within
329 three years next after the violation alleged in the complaint has been
330 committed.

331 (e) No person shall take or threaten to take official action against an
332 individual for such individual's disclosure of information to the

333 commission under the provisions of this part. After receipt of
334 information from an individual under the provisions of this part, the
335 commission shall not disclose the identity of such individual without
336 his consent unless the commission determines that such disclosure is
337 unavoidable during the course of an investigation.

338 Sec. 4. Section 1-88 of the general statutes is repealed and the
339 following is substituted in lieu thereof (*Effective from passage*):

340 (a) The commission, upon a finding made pursuant to section 1-82,
341 as amended by this act, that there has been a violation of any provision
342 of this part or section 1 of this act, shall have the authority to order the
343 violator to do any or all of the following: (1) Cease and desist the
344 violation of this part or section 1 of this act; (2) file any report,
345 statement or other information as required by this part or section 1 of
346 this act; and (3) pay a civil penalty of not more than two thousand
347 dollars for each violation of this part or section 1 of this act.

348 (b) Notwithstanding the provisions of subsection (a) of this section,
349 the commission may, after a hearing conducted in accordance with
350 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
351 its members, impose a civil penalty not to exceed ten dollars per day
352 upon any individual who fails to file any report, statement or other
353 information as required by this part or section 1 of this act. Each
354 distinct violation of this subsection shall be a separate offense and in
355 case of a continued violation, each day thereof shall be deemed a
356 separate offense. In no event shall the aggregate penalty imposed for
357 such failure to file exceed two thousand dollars.

358 (c) The commission may also report its finding to the Chief State's
359 Attorney for any action deemed necessary. The commission, upon a
360 finding made pursuant to section 1-82 that a member or member-elect
361 of the General Assembly has violated any provision of part I of chapter
362 10, shall notify the appropriate house of the General Assembly, in
363 writing, of its finding and the basis for such finding.

364 (d) Any person who knowingly acts in his financial interest in

365 violation of section 1-84, as amended, 1-85, [or] 1-86 or section 1 of this
366 act or any person who knowingly receives a financial advantage
367 resulting from a violation of any of said sections shall be liable for
368 damages in the amount of such advantage. If the commission
369 determines that any person may be so liable, it shall immediately
370 inform the Attorney General of that possibility.

371 (e) Any employee or member of the commission who, in violation of
372 this part, discloses information filed in accordance with subparagraph
373 (B) or subparagraph (F) of subdivision (1) of subsection (b) of section 1-
374 83, shall be dismissed, if an employee, or removed from the
375 commission, if a member.

376 Sec. 5. Section 1-89 of the general statutes is repealed and the
377 following is substituted in lieu thereof (*Effective from passage*):

378 (a) Any person who intentionally violates any provision of this part
379 or section 1 of this act shall be imprisoned for a term not to exceed one
380 year or shall be fined an amount not to exceed two thousand dollars,
381 or both, provided no person may be found guilty of a violation of
382 subsection (f) or (g) of section 1-84, as amended, and bribery or bribe
383 receiving under section 53a-147, as amended, or 53a-148, as amended,
384 upon the same incident, but such person may be charged and
385 prosecuted for all or any of such offenses upon the same information.

386 (b) The penalties prescribed in this part shall not limit the power of
387 either house of the legislature to discipline its own members or
388 impeach a public official, and shall not limit the power of agencies or
389 commissions to discipline their officials or employees.

390 (c) The Attorney General may bring a civil action against any person
391 who may be liable for damages under the provisions of subsection (d)
392 of section 1-88, as amended by this act. In any such action, the
393 Attorney General may, in the discretion of the court, recover additional
394 damages in an amount not exceeding twice the amount of the actual
395 damages.

396 (d) Any fines, penalties or damages paid, collected or recovered
397 under section 1-88, as amended by this act, or this section for a
398 violation of any provision of this part or section 1 of this act applying
399 to the office of the Treasurer shall be deposited on a pro rata basis in
400 any trust funds, as defined in section 3-13c, affected by such violation.

401 Sec. 6. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
402 provision of the general statutes, the appropriations recommended for
403 the State Ethics Commission, as established in section 1-80 of the
404 general statutes, as amended by this act, shall be the estimates of
405 expenditure requirements transmitted to the Secretary of the Office of
406 Policy and Management by the executive director of the commission
407 and the recommended adjustments and revisions of such estimates
408 shall be the recommended adjustments and revisions, if any,
409 transmitted by said executive director to the Office of Policy and
410 Management.

411 (b) Notwithstanding any provision of the general statutes, the
412 Governor shall not reduce allotment requisitions or allotments in force
413 concerning the State Ethics Commission.

414 Sec. 7. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
415 provision of the general statutes, the appropriations recommended for
416 the State Elections Enforcement Commission, as established in section
417 9-7a of the general statutes, shall be the estimates of expenditure
418 requirements transmitted to the Secretary of the Office of Policy and
419 Management by the executive director of the commission and the
420 recommended adjustments and revisions of such estimates shall be the
421 recommended adjustments and revisions, if any, transmitted by said
422 executive director to the Office of Policy and Management.

423 (b) Notwithstanding any provision of the general statutes, the
424 Governor shall not reduce allotment requisitions or allotments in force
425 concerning the State Elections Enforcement Commission.

426 Sec. 8. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
427 provision of the general statutes, the appropriations recommended for

428 the Freedom of Information Commission, as established in section 1-
 429 205 of the general statutes, shall be the estimates of expenditure
 430 requirements transmitted to the Secretary of the Office of Policy and
 431 Management by the executive director of the commission and the
 432 recommended adjustments and revisions of such estimates shall be the
 433 recommended adjustments and revisions, if any, transmitted by said
 434 executive director to the Office of Policy and Management.

435 (b) Notwithstanding any provision of the general statutes, the
 436 Governor shall not reduce allotment requisitions or allotments in force
 437 concerning the Freedom of Information Commission.

438 Sec. 9. Subsection (l) of section 1-79 of the general statutes is
 439 repealed and the following is substituted in lieu thereof (*Effective*
 440 *October 1, 2004*):

441 (l) "Quasi-public agency" means the Connecticut Development
 442 Authority, Connecticut Innovations, Incorporated, Connecticut Health
 443 and Education Facilities Authority, Connecticut Higher Education
 444 Supplemental Loan Authority, Connecticut Housing Finance
 445 Authority, Connecticut Housing Authority, Connecticut Resources
 446 Recovery Authority, Connecticut Hazardous Waste Management
 447 Service, Lower Fairfield County Convention Center Authority, Capital
 448 City Economic Development Authority, [and] Connecticut Port
 449 Authority and Connecticut Lottery Corporation."

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</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>October 1, 2004</i>