



General Assembly

**Amendment**

February Session, 2004

LCO No. 5220

\*SB0062405220HDO\*

Offered by:  
REP. LYONS, 146<sup>th</sup> Dist.

To: Senate Bill No. 624

File No. 559

Cal. No. 462

**"AN ACT CONCERNING EXPENDITURES FOR THE STATE ELECTIONS ENFORCEMENT COMMISSION, THE STATE ETHICS COMMISSION AND THE FREEDOM OF INFORMATION COMMISSION."**

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

"Section 1. Subsection (a) of section 1-80 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be a State Ethics Commission consisting of [seven] nine members to be appointed with the advice and consent of the General Assembly. One member shall be appointed by the speaker of the House, one member by the president pro tempore of the Senate, one member by the majority leader of the Senate, one member by the minority leader of the Senate, one member by the majority leader of the House of Representatives, one member by the minority leader of the House of Representatives and three members by the Governor.

Members of the commission shall serve for four-year terms which shall commence on October first, except that members first appointed shall have the following terms: The Governor shall appoint two members for a term of three years and one member for a term of four years; the majority leader of the House or Representatives, minority leader of the House of Representatives and the speaker of the House of Representatives shall each appoint one member for a term of two years; the president pro tempore of the Senate, the majority leader of the Senate and the minority leader of the Senate shall each appoint one member for a term of four years. No individual shall be appointed to more than one four-year term as a member of such commission, provided that members may continue in office until a successor has been appointed and qualified. No more than ~~four~~ five members shall be members of the same political party. The members appointed by the majority leader of the Senate and the majority leader of the House of Representatives shall be selected from a list of nominees proposed by a citizen group having an interest in ethical government. The majority leader of the Senate and the majority leader of the House of Representatives shall each determine the citizen group from which each will accept such nominations. On and after October 1, 2004, one member appointed by the Governor shall be selected from a list of nominees proposed by a citizen group having an interest in ethical government. The Governor shall determine the citizen group from which the Governor will accept such nominations.

Sec. 2. Subsection (d) of section 1-80 of the general statutes, as amended by section 1 of public act 03-19, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) The commission shall elect a chairperson who shall, except as provided in subsection (b) of section 1-82 and subsection (b) of section 1-93, preside at meetings of the commission and a vice-chairperson to preside in the absence of the chairperson. ~~Five~~ Six members of the commission shall constitute a quorum. Except as provided in subdivision (3) of subsection (a) of section 1-81, subsections (a) and (b) of section 1-82, subsection (b) of section 1-88, subdivision (5) of section

1-92, subsections (a) and (b) of section 1-93 and subsection (b) of section 1-99, a majority vote of the quorum shall be required for action of the commission. The chairperson or any [four] five members may call a meeting.

Sec. 3. Subdivision (3) of section 1-81 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) Upon the concurring vote of [four] five of its members, issue advisory opinions with regard to the requirements of this part, upon the request of any person subject to the provisions of this part, and publish such advisory opinions in the Connecticut Law Journal. Advisory opinions rendered by the commission, until amended or revoked, shall be binding on the commission and shall be deemed to be final decisions of the commission for purposes of section 1-87. Any advisory opinion concerning the person who requested the opinion and who acted in reliance thereon, in good faith, shall be binding upon the commission, and it shall be an absolute defense in any criminal action brought under the provisions of this part, that the accused acted in reliance upon such advisory opinion.

Sec. 4. Subsections (a) and (b) of section 1-82 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Upon the complaint of any person on a form prescribed by the commission, signed under penalty of false statement, or upon its own complaint, the commission shall investigate any alleged violation of this part. Not later than five days after the receipt or issuance of such complaint, the commission shall provide notice of such receipt or issuance and a copy of the complaint by registered or certified mail to any respondent against whom such complaint is filed and shall provide notice of the receipt of such complaint to the complainant. When the commission undertakes an evaluation of a possible violation of this part prior to the filing of a complaint by the commission, the

subject of the evaluation shall be notified within five business days after a commission staff member's first contact with a third party concerning the matter.

(2) In the conduct of its investigation of an alleged violation of this part, the commission shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses under procedural rules adopted by the commission as regulations in accordance with the provisions of chapter 54 to compel attendance before the commission and to require the production for examination by the commission of any books and papers which the commission deems relevant in any matter under investigation or in question. In the exercise of such powers, the commission may use the services of the state police, who shall provide the same upon the commission's request. The commission shall make a record of all proceedings conducted pursuant to this subsection. Any witness summoned before the commission shall receive the witness fee paid to witnesses in the courts of this state. During the investigation the respondent shall have the right to appear and be heard and to offer any information which may tend to clear him of probable cause to believe he has violated any provision of this part. The respondent shall also have the right to be represented by legal counsel and to examine and cross-examine witnesses. Not later than ten days prior to the commencement of any hearing conducted pursuant to this subsection, the commission shall provide the respondent with a list of its intended witnesses. The commission shall make no finding that there is probable cause to believe the respondent is in violation of any provision of this part except upon the concurring vote of [~~four~~] five of its members.

(b) If a preliminary investigation indicates that probable cause exists for the violation of a provision of this part, the commission shall initiate hearings to determine whether there has been a violation of this part. A judge trial referee, who shall be assigned by the Chief Court Administrator and who shall be compensated in accordance with section 52-434 out of funds available to the commission, shall

preside over such hearing and shall rule on all matters concerning the application of the rules of evidence, which shall be the same as in judicial proceedings. The trial referee shall have no vote in any decision of the commission. All hearings of the commission held pursuant to this subsection shall be open. At such hearing the commission shall have the same powers as under subsection (a) of this section and the respondent shall have the right to be represented by legal counsel, the right to compel attendance of witnesses and the production of books, documents, records and papers and to examine and cross-examine witnesses. Not later than ten days prior to the commencement of any hearing conducted pursuant to this subsection, the commission shall provide the respondent with a list of its intended witnesses. The judge trial referee shall, while engaged in the discharge of his duties as provided in this subsection, have the same authority as is provided in section 51-35 over witnesses who refuse to obey a subpoena or to testify with respect to any matter upon which such witness may be lawfully interrogated, and may commit any such witness for contempt for a period no longer than thirty days. The commission shall make a record of all proceedings pursuant to this subsection. The commission shall find no person in violation of any provision of this part except upon the concurring vote of ~~[five]~~ seven of its members. Not later than fifteen days after the public hearing conducted in accordance with this subsection, the commission shall publish its finding and a memorandum of the reasons therefor. Such finding and memorandum shall be deemed to be the final decision of the commission on the matter for the purposes of chapter 54. The respondent, if aggrieved by the finding and memorandum, may appeal therefrom to the Superior Court in accordance with the provisions of section 4-183.

Sec. 5. Subsection (b) of section 1-88 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Notwithstanding the provisions of subsection (a) of this section, the commission may, after a hearing conducted in accordance with

sections 4-176e to 4-184, inclusive, upon the concurring vote of [five] seven of its members, impose a civil penalty not to exceed ten dollars per day upon any individual who fails to file any report, statement or other information as required by this part. Each distinct violation of this subsection shall be a separate offense and in case of a continued violation, each day thereof shall be deemed a separate offense. In no event shall the aggregate penalty imposed for such failure to file exceed two thousand dollars.

Sec. 6. Subdivision (5) of section 1-92 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(5) Upon the concurring vote of [four] five of its members, issue advisory opinions with regard to the requirements of this part, upon the request of any person, subject to the provisions of this part, and publish such advisory opinions in the Connecticut Law Journal. Advisory opinions rendered by the commission, until amended or revoked, shall be binding on the commission and shall be deemed to be final decisions of the commission for purposes of section 1-98. Any advisory opinion concerning any person subject to the provisions of this part who requested the opinion and who acted in reliance thereon, in good faith, shall be binding upon the commission, and it shall be an absolute defense in any criminal action brought under the provisions of this part that the accused acted in reliance upon such advisory opinion.

Sec. 7. Subsections (a) and (b) of section 1-93 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Upon the complaint of any person on a form prescribed by the commission, signed under penalty of false statement, or upon its own complaint, the commission shall investigate any alleged violation of this part. Not later than five days after the receipt or issuance of such complaint, the commission shall provide notice of such receipt or

issuance and a copy of the complaint by registered or certified mail to any respondent against whom such complaint is filed and shall provide notice of the receipt of such complaint to the complainant. When the commission undertakes an evaluation of a possible violation of this part prior to the filing of a complaint by the commission, the subject of the evaluation shall be notified within five business days after a commission staff member's first contact with a third party concerning the matter.

(2) In the conduct of its investigation of an alleged violation of this part, the commission shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses under procedural rules adopted by the commission as regulations in accordance with the provisions of chapter 54 to compel attendance before the commission and to require the production for examination by the commission of any books and papers which the commission deems relevant in any matter under investigation or in question. In the exercise of such powers, the commission may use the services of the state police, who shall provide the same upon the commission's request. The commission shall make a record of all proceedings conducted pursuant to this subsection. Any witness summoned before the commission shall receive the witness fee paid to witnesses in the courts of this state. The respondent shall have the right to appear and be heard and to offer any information which may tend to clear him of probable cause to believe he has violated any provision of this part. The respondent shall also have the right to be represented by legal counsel and to examine and cross-examine witnesses. Not later than ten days prior to the commencement of any hearing conducted pursuant to this subsection, the commission shall provide the respondent with a list of its intended witnesses. The commission shall make no finding that there is probable cause to believe the respondent is in violation of this part, except upon the concurring vote of [~~four~~] five of its members.

(b) If a preliminary investigation indicates that probable cause exists for the violation of a provision of this part, the commission shall

initiate hearings to determine whether there has been a violation of this part. A judge trial referee, who shall be assigned by the Chief Court Administrator and who shall be compensated in accordance with section 52-434 out of funds available to the commission, shall preside over such hearing and shall rule on all matters concerning the application of the rules of evidence, which shall be the same as in judicial proceedings. The trial referee shall have no vote in any decision of the commission. All hearings of the commission held pursuant to this subsection shall be open. At such hearing the commission shall have the same powers as under subsection (a) of this section and the respondent shall have the right to be represented by legal counsel, the right to compel attendance of witnesses and the production of books, documents, records and papers and to examine and cross-examine witnesses. Not later than ten days prior to the commencement of any hearing conducted pursuant to this subsection, the commission shall provide the respondent with a list of its intended witnesses. The judge trial referee shall, while engaged in the discharge of his duties as provided in this subsection, have the same authority as is provided in section 51-35 over witnesses who refuse to obey a subpoena or to testify with respect to any matter upon which such witness may be lawfully interrogated, and may commit any such witness for contempt for a period no longer than thirty days. The commission shall make a record of all proceedings pursuant to this subsection. The commission shall find no person in violation of any provision of this part except upon the concurring vote of ~~[five]~~ six of its members. Not later than fifteen days after the public hearing conducted in accordance with this subsection, the commission shall publish its finding and a memorandum of the reasons therefor. Such finding and memorandum shall be deemed to be the final decision of the commission on the matter for the purposes of chapter 54. The respondent, if aggrieved by the finding and memorandum, may appeal therefrom to the Superior Court in accordance with the provisions of section 4-183.

Sec. 8. Subsection (b) of section 1-99 of the general statutes is

repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

Sec. 9. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any provision of the general statutes, the appropriations recommended for the State Ethics Commission, as established in section 1-80 of the general statutes, as amended by this act, shall be the estimates of expenditure requirements transmitted to the Secretary of the Office of Policy and Management by the executive director of the commission and the recommended adjustments and revisions of such estimates shall be the recommended adjustments and revisions, if any, transmitted by said executive director to the Office of Policy and Management.

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

Sec. 10. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any provision of the general statutes, the appropriations recommended for the State Elections Enforcement Commission, as established in section 9-7a of the general statutes, shall be the estimates of expenditure requirements transmitted to the Secretary of the Office of Policy and Management by the executive director of the commission and the recommended adjustments and revisions of such estimates shall be the

recommended adjustments and revisions, if any, transmitted by said executive director to the Office of Policy and Management.

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

Sec. 11. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any provision of the general statutes, the appropriations recommended for the Freedom of Information Commission, as established in section 1-205 of the general statutes, shall be the estimates of expenditure requirements transmitted to the Secretary of the Office of Policy and Management by the executive director of the commission and the recommended adjustments and revisions of such estimates shall be the recommended adjustments and revisions, if any, transmitted by said executive director to the Office of Policy and Management.

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

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>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>
Sec. 11	<i>July 1, 2004</i>