



General Assembly

Amendment

February Session, 2004

LCO No. 3591

SB0062403591SD0

Offered by:

SEN. SULLIVAN, 5th Dist.
SEN. LOONEY, 11th Dist.
SEN. WILLIAMS, 29th Dist.
SEN. FONFARA, 1st Dist.
SEN. COLEMAN, 2nd Dist.
SEN. LEBEAU, 3rd Dist.
SEN. HANDLEY, 4th Dist.
SEN. DEFRONZO, 6th Dist.
SEN. CIOTTO, 9th Dist.
SEN. HARP, 10th Dist.
SEN. GAFFEY, 13th Dist.

SEN. HARTLEY, 15th Dist.
SEN. MURPHY, 16th Dist.
SEN. CRISCO, 17th Dist.
SEN. PRAGUE, 19th Dist.
SEN. PETERS, 20th Dist.
SEN. FINCH, 22nd Dist.
SEN. NEWTON, 23rd Dist.
SEN. MCDONALD, 27th Dist.
SEN. COLAPIETRO, 31st Dist.
SEN. DAILY, 33rd Dist.

To: Senate Bill No. 624

File No. 559

Cal. No. 402

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

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

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4 repealed and the following is substituted in lieu thereof (*Effective from*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

6 (a) There shall be a State Ethics Commission consisting of [seven]
7 nine members to be appointed with the advice and consent of the
8 General Assembly. One member shall be appointed by the speaker of
9 the House, one member by the president pro tempore of the Senate,
10 one member by the majority leader of the Senate, one member by the
11 minority leader of the Senate, one member by the majority leader of
12 the House of Representatives, one member by the minority leader of
13 the House of Representatives and three members by the Governor.
14 Members of the commission shall serve for four-year terms which shall
15 commence on October first, except that members first appointed shall
16 have the following terms: The Governor shall appoint two members
17 for a term of three years and one member for a term of four years; the
18 majority leader of the House or Representatives, minority leader of the
19 House of Representatives and the speaker of the House of
20 Representatives shall each appoint one member for a term of two
21 years; the president pro tempore of the Senate, the majority leader of
22 the Senate and the minority leader of the Senate shall each appoint one
23 member for a term of four years. No individual shall be appointed to
24 more than one four-year term as a member of such commission,
25 provided that members may continue in office until a successor has
26 been appointed and qualified. No more than [four] five members shall
27 be members of the same political party. The members appointed by the
28 majority leader of the Senate and the majority leader of the House of
29 Representatives shall be selected from a list of nominees proposed by a
30 citizen group having an interest in ethical government. The majority
31 leader of the Senate and the majority leader of the House of
32 Representatives shall each determine the citizen group from which
33 each will accept such nominations. On and after October 1, 2004, one
34 member appointed by the Governor shall be selected from a list of
35 nominees proposed by a citizen group having an interest in ethical
36 government. The Governor shall determine the citizen group from
37 which the Governor will accept such nominations.

38 Sec. 2. Subsection (d) of section 1-80 of the general statutes, as
39 amended by section 1 of public act 03-19, is repealed and the following

40 is substituted in lieu thereof (*Effective from passage*):

41 (d) The commission shall elect a chairperson who shall, except as
42 provided in subsection (b) of section 1-82 and subsection (b) of section
43 1-93, preside at meetings of the commission and a vice-chairperson to
44 preside in the absence of the chairperson. [Five] Six members of the
45 commission shall constitute a quorum. Except as provided in
46 subdivision (3) of subsection (a) of section 1-81, subsections (a) and (b)
47 of section 1-82, subsection (b) of section 1-88, subdivision (5) of section
48 1-92, subsections (a) and (b) of section 1-93 and subsection (b) of
49 section 1-99, a majority vote of the quorum shall be required for action
50 of the commission. The chairperson or any [four] five members may
51 call a meeting.

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

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

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

70 (a) (1) Upon the complaint of any person on a form prescribed by
71 the commission, signed under penalty of false statement, or upon its

72 own complaint, the commission shall investigate any alleged violation
73 of this part. Not later than five days after the receipt or issuance of
74 such complaint, the commission shall provide notice of such receipt or
75 issuance and a copy of the complaint by registered or certified mail to
76 any respondent against whom such complaint is filed and shall
77 provide notice of the receipt of such complaint to the complainant.
78 When the commission undertakes an evaluation of a possible violation
79 of this part prior to the filing of a complaint by the commission, the
80 subject of the evaluation shall be notified within five business days
81 after a commission staff member's first contact with a third party
82 concerning the matter.

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

106 provision of this part except upon the concurring vote of [~~four~~] five of
107 its members.

108 (b) If a preliminary investigation indicates that probable cause exists
109 for the violation of a provision of this part, the commission shall
110 initiate hearings to determine whether there has been a violation of
111 this part. A judge trial referee, who shall be assigned by the Chief
112 Court Administrator and who shall be compensated in accordance
113 with section 52-434 out of funds available to the commission, shall
114 preside over such hearing and shall rule on all matters concerning the
115 application of the rules of evidence, which shall be the same as in
116 judicial proceedings. The trial referee shall have no vote in any
117 decision of the commission. All hearings of the commission held
118 pursuant to this subsection shall be open. At such hearing the
119 commission shall have the same powers as under subsection (a) of this
120 section and the respondent shall have the right to be represented by
121 legal counsel, the right to compel attendance of witnesses and the
122 production of books, documents, records and papers and to examine
123 and cross-examine witnesses. Not later than ten days prior to the
124 commencement of any hearing conducted pursuant to this subsection,
125 the commission shall provide the respondent with a list of its intended
126 witnesses. The judge trial referee shall, while engaged in the discharge
127 of his duties as provided in this subsection, have the same authority as
128 is provided in section 51-35 over witnesses who refuse to obey a
129 subpoena or to testify with respect to any matter upon which such
130 witness may be lawfully interrogated, and may commit any such
131 witness for contempt for a period no longer than thirty days. The
132 commission shall make a record of all proceedings pursuant to this
133 subsection. The commission shall find no person in violation of any
134 provision of this part except upon the concurring vote of [~~five~~] seven
135 of its members. Not later than fifteen days after the public hearing
136 conducted in accordance with this subsection, the commission shall
137 publish its finding and a memorandum of the reasons therefor. Such
138 finding and memorandum shall be deemed to be the final decision of
139 the commission on the matter for the purposes of chapter 54. The

140 respondent, if aggrieved by the finding and memorandum, may
141 appeal therefrom to the Superior Court in accordance with the
142 provisions of section 4-183.

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

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

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

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

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

175 (a) (1) Upon the complaint of any person on a form prescribed by
176 the commission, signed under penalty of false statement, or upon its
177 own complaint, the commission shall investigate any alleged violation
178 of this part. Not later than five days after the receipt or issuance of
179 such complaint, the commission shall provide notice of such receipt or
180 issuance and a copy of the complaint by registered or certified mail to
181 any respondent against whom such complaint is filed and shall
182 provide notice of the receipt of such complaint to the complainant.
183 When the commission undertakes an evaluation of a possible violation
184 of this part prior to the filing of a complaint by the commission, the
185 subject of the evaluation shall be notified within five business days
186 after a commission staff member's first contact with a third party
187 concerning the matter.

188 (2) In the conduct of its investigation of an alleged violation of this
189 part, the commission shall have the power to hold hearings, administer
190 oaths, examine witnesses, receive oral and documentary evidence,
191 subpoena witnesses under procedural rules adopted by the
192 commission as regulations in accordance with the provisions of
193 chapter 54 to compel attendance before the commission and to require
194 the production for examination by the commission of any books and
195 papers which the commission deems relevant in any matter under
196 investigation or in question. In the exercise of such powers, the
197 commission may use the services of the state police, who shall provide
198 the same upon the commission's request. The commission shall make a
199 record of all proceedings conducted pursuant to this subsection. Any
200 witness summoned before the commission shall receive the witness fee
201 paid to witnesses in the courts of this state. The respondent shall have
202 the right to appear and be heard and to offer any information which
203 may tend to clear him of probable cause to believe he has violated any
204 provision of this part. The respondent shall also have the right to be
205 represented by legal counsel and to examine and cross-examine

206 witnesses. Not later than ten days prior to the commencement of any
207 hearing conducted pursuant to this subsection, the commission shall
208 provide the respondent with a list of its intended witnesses. The
209 commission shall make no finding that there is probable cause to
210 believe the respondent is in violation of this part, except upon the
211 concurring vote of [~~four~~] five of its members.

212 (b) If a preliminary investigation indicates that probable cause exists
213 for the violation of a provision of this part, the commission shall
214 initiate hearings to determine whether there has been a violation of
215 this part. A judge trial referee, who shall be assigned by the Chief
216 Court Administrator and who shall be compensated in accordance
217 with section 52-434 out of funds available to the commission, shall
218 preside over such hearing and shall rule on all matters concerning the
219 application of the rules of evidence, which shall be the same as in
220 judicial proceedings. The trial referee shall have no vote in any
221 decision of the commission. All hearings of the commission held
222 pursuant to this subsection shall be open. At such hearing the
223 commission shall have the same powers as under subsection (a) of this
224 section and the respondent shall have the right to be represented by
225 legal counsel, the right to compel attendance of witnesses and the
226 production of books, documents, records and papers and to examine
227 and cross-examine witnesses. Not later than ten days prior to the
228 commencement of any hearing conducted pursuant to this subsection,
229 the commission shall provide the respondent with a list of its intended
230 witnesses. The judge trial referee shall, while engaged in the discharge
231 of his duties as provided in this subsection, have the same authority as
232 is provided in section 51-35 over witnesses who refuse to obey a
233 subpoena or to testify with respect to any matter upon which such
234 witness may be lawfully interrogated, and may commit any such
235 witness for contempt for a period no longer than thirty days. The
236 commission shall make a record of all proceedings pursuant to this
237 subsection. The commission shall find no person in violation of any
238 provision of this part except upon the concurring vote of [~~five~~] six of its
239 members. Not later than fifteen days after the public hearing

240 conducted in accordance with this subsection, the commission shall
241 publish its finding and a memorandum of the reasons therefor. Such
242 finding and memorandum shall be deemed to be the final decision of
243 the commission on the matter for the purposes of chapter 54. The
244 respondent, if aggrieved by the finding and memorandum, may
245 appeal therefrom to the Superior Court in accordance with the
246 provisions of section 4-183.

247 Sec. 8. Subsection (b) of section 1-99 of the general statutes is
248 repealed and the following is substituted in lieu thereof (*Effective from*
249 *passage*):

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

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

270 (b) Notwithstanding any provision of the general statutes, the
271 Governor shall not reduce allotment requisitions or allotments in force

272 concerning the State Ethics Commission.

273 Sec. 10. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
274 provision of the general statutes, the appropriations recommended for
275 the State Elections Enforcement Commission, as established in section
276 9-7a of the general statutes, shall be the estimates of expenditure
277 requirements transmitted to the Secretary of the Office of Policy and
278 Management by the executive director of the commission and the
279 recommended adjustments and revisions of such estimates shall be the
280 recommended adjustments and revisions, if any, transmitted by said
281 executive director to the Office of Policy and Management.

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

285 Sec. 11. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
286 provision of the general statutes, the appropriations recommended for
287 the Freedom of Information Commission, as established in section 1-
288 205 of the general statutes, shall be the estimates of expenditure
289 requirements transmitted to the Secretary of the Office of Policy and
290 Management by the executive director of the commission and the
291 recommended adjustments and revisions of such estimates shall be the
292 recommended adjustments and revisions, if any, transmitted by said
293 executive director to the Office of Policy and Management.

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

297 Sec. 12. (NEW) (*Effective July 1, 2004*) The State Ethics Commission,
298 as created in section 1-80 of the general statutes, as amended by this
299 act, the State Elections Enforcement Commission, as established in
300 section 9-7a of the general statutes and the Freedom of Information
301 Commission, established in section 1-205 of the general statutes, shall
302 annually be funded by the General Assembly in an amount equal to
303 the amount of funding received by each commission in the previous

304 year plus an amount to reflect the increase in the rate of inflation, as
305 determined by changes in the consumer price index. Within available
306 appropriations, the funding of each commission shall annually be
307 increased by two per cent for purposes of adjustments to personnel
308 salaries."

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>
Sec. 12	<i>July 1, 2004</i>