



House of Representatives

General Assembly

File No. 53

January Session, 2015

Substitute House Bill No. 6670

House of Representatives, March 12, 2015

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING APPOINTMENTS TO THE CITIZEN'S ETHICS ADVISORY BOARD AND REVISIONS TO THE CODE OF ETHICS FOR PUBLIC OFFICIALS.

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

1 Section 1. Subsection (a) of section 1-80 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2015*):

4 (a) There shall be established, within the Office of Governmental
5 Accountability established under section 1-300, an Office of State
6 Ethics. Said office shall consist of an executive director, general
7 counsel, ethics enforcement officer and such other staff as hired by the
8 executive director. Within the Office of State Ethics, there shall be the
9 Citizen's Ethics Advisory Board that shall consist of nine members,
10 appointed as follows: One member shall be appointed by the speaker
11 of the House of Representatives, one member by the president pro
12 tempore of the Senate, one member by the majority leader of the

13 Senate, one member by the minority leader of the Senate, one member
14 by the majority leader of the House of Representatives, one member by
15 the minority leader of the House of Representatives, and three
16 members by the Governor. Members of the board first appointed for a
17 term commencing October 1, 2005, shall have the following terms: The
18 Governor shall appoint two members for a term of three years and one
19 member for a term of four years; the majority leader of the House of
20 Representatives, minority leader of the House of Representatives and
21 the speaker of the House of Representatives shall each appoint one
22 member for a term of two years; and the president pro tempore of the
23 Senate, the majority leader of the Senate and the minority leader of the
24 Senate shall each appoint one member for a term of four years. The
25 term commencing October 1, 2009, for the member appointed by the
26 Governor and the member appointed by the president pro tempore of
27 the Senate shall be five years. Upon the expiration of such members'
28 five-year terms, such members may not be reappointed. Any member
29 appointed for a term commencing on or after October 1, 2014, shall
30 serve for a term of four years. No individual shall be appointed to
31 more than one four-year [or five-year] term as a member of the board,
32 provided, members may [not] continue in office [after their term has
33 expired and members first appointed may not be reappointed] until a
34 successor is appointed. If a member continues to serve for more than
35 one hundred eighty days after his or her term has expired, his or her
36 successor shall be eligible for appointment to a full four-year term. No
37 more than five members shall be members of the same political party.
38 The members appointed by the majority leader of the Senate and the
39 majority leader of the House of Representatives shall be selected from
40 a list of nominees proposed by a citizen group having an interest in
41 ethical government. The majority leader of the Senate and the majority
42 leader of the House of Representatives shall each determine the citizen
43 group from which each will accept such nominations. One member
44 appointed by the Governor shall be selected from a list of nominees
45 proposed by a citizen group having an interest in ethical government.
46 The Governor shall determine the citizen group from which the
47 Governor will accept such nominations.

48 Sec. 2. Subsection (i) of section 1-84 of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *October 1, 2015*):

51 (i) (1) No public official or state employee or member of the official
52 or employee's immediate family or a business with which he is
53 associated shall enter into any contract with the state or a quasi-public
54 agency, valued at one hundred dollars or more, other than a contract
55 (A) of employment as a state employee, (B) with the technical high
56 school system for students enrolled in a school in the system to
57 perform services in conjunction with vocational, technical or
58 technological education and training any such student is receiving at a
59 school in the system, subject to the review process under subdivision
60 (2) of this subsection, (C) with a public institution of higher education
61 to support a collaboration with such institution to develop and
62 commercialize any invention or discovery, or (D) pursuant to a court
63 appointment, unless the contract has been awarded through an open
64 and public process, including prior public offer and subsequent public
65 disclosure of all proposals considered and the contract awarded. In no
66 event shall an executive head of an agency, as defined in section 4-166,
67 including a commissioner of a department, or an executive head of a
68 quasi-public agency, as defined in section 1-79, or the executive head's
69 immediate family or a business with which he is associated enter into
70 any contract with that agency or quasi-public agency. Nothing in this
71 subsection shall be construed as applying to any public official who is
72 appointed as a member of the executive branch or as a member or
73 director of a quasi-public agency and who receives no compensation
74 other than per diem payments or reimbursement for actual or
75 necessary expenses, or both, incurred in the performance of the public
76 official's duties unless such public official has authority or control over
77 the subject matter of the contract. Any contract made in violation of
78 this subsection shall be voidable by a court of competent jurisdiction if
79 the suit is commenced not later than one hundred eighty days after the
80 making of the contract.

81 (2) The superintendent of the technical high school system shall

82 establish an open and transparent process to review any contract
83 entered into under subparagraph (B) of subdivision (1) of this
84 subsection.

85 Sec. 3. Subsection (k) of section 1-84 of the general statutes is
86 repealed and the following is substituted in lieu thereof (*Effective*
87 *October 1, 2015*):

88 (k) No public official, spouse of the Governor or state employee
89 shall accept a fee or honorarium for an article, appearance or speech, or
90 for participation at an event, in the public official's, spouse's or state
91 employee's official capacity, provided a public official, Governor's
92 spouse or state employee may receive payment or reimbursement for
93 necessary expenses for any such activity in his or her official capacity
94 from a sponsor of the activity. If a public official, Governor's spouse or
95 state employee receives such a payment or reimbursement for lodging
96 or out-of-state travel, or both, the public official, Governor's spouse or
97 state employee shall, not later than thirty days thereafter, file a report
98 of the payment or reimbursement with the Office of State Ethics,
99 unless the payment or reimbursement is provided by the federal
100 government or another state government. If a public official,
101 Governor's spouse or state employee does not file such report within
102 such period, either intentionally or due to gross negligence on the
103 public official's, Governor's spouse's or state employee's part, the
104 public official, Governor's spouse or state employee shall return the
105 payment or reimbursement. If any failure to file such report is not
106 intentional or due to gross negligence on the part of the public official,
107 Governor's spouse or state employee, the public official, Governor's
108 spouse or state employee shall not be subject to any penalty under this
109 chapter. When a public official, Governor's spouse or state employee
110 attends an event in this state in the public official's, Governor's
111 spouse's or state employee's official capacity and as a principal speaker
112 at such event and receives admission to or food or beverage at such
113 event from [the] a sponsor of the event, such admission or food or
114 beverage shall not be considered a gift and no report shall be required
115 from such public official, spouse or state employee or from the sponsor

116 of the event.

117 Sec. 4. Section 1-86e of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2015*):

119 (a) No person hired by the state or a quasi-public agency as a
120 consultant or independent contractor shall:

121 (1) Use the authority provided to the person under the contract, or
122 any confidential information acquired in the performance of the
123 contract, to obtain financial gain for the person, an employee of the
124 person or a member of the immediate family of any such person or
125 employee;

126 (2) Accept another state or quasi-public agency contract which
127 would impair the independent judgment of the person in the
128 performance of the existing contract; or

129 (3) Accept anything of value based on an understanding that the
130 actions of the person on behalf of the state or quasi-public agency
131 would be influenced.

132 (b) No person shall give anything of value to a person hired by the
133 state or a quasi-public agency as a consultant or independent
134 contractor based on an understanding that the actions of the consultant
135 or independent contractor on behalf of the state or quasi-public agency
136 would be influenced.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	1-80(a)
Sec. 2	<i>October 1, 2015</i>	1-84(i)
Sec. 3	<i>October 1, 2015</i>	1-84(k)
Sec. 4	<i>October 1, 2015</i>	1-86e

Statement of Legislative Commissioners:

In Section 3, "event" was changed to "activity" for consistency with other provisions of the sentence.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which modifies certain provisions of the statutes concerning ethics and contracting by state officials, employees, and vendors, has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6670*****AN ACT CONCERNING APPOINTMENTS TO THE CITIZEN'S ETHICS ADVISORY BOARD AND REVISIONS TO THE CODE OF ETHICS FOR PUBLIC OFFICIALS.*****SUMMARY:**

This bill makes several changes to the State Code of Ethics. It prohibits public officials and state employees (and their immediate family members and associated businesses) from entering into contracts worth \$100 or more with quasi-public agencies, unless the contract was awarded through an open and public process. It extends, to quasi-public agency consultants and contractors, certain prohibitions in the Code of Ethics concerning unethical bidding or contracting practices (e.g., conflicts of interest and quid pro quo arrangements) that already apply to state agency consultants and contractors.

The bill also allows (1) members of the Citizen's Ethics Advisory Board to serve past their term's expiration date until a replacement is appointed and (2) the replacement to serve a full four-year term if his or her predecessor serves for more than 180 days past the expiration of the original term. Under current law, board members cannot serve past their term's expiration date.

Under the Code of Ethics, public officials, state employees, and the governor's spouse may accept payments or reimbursements for necessary expenses if, in their official capacities, they write an article, make an appearance or speech, or participate at an event. The bill specifies that the payment or reimbursement must be from the activity's sponsor.

The bill also makes a technical change.

EFFECTIVE DATE: October 1, 2015

PROHIBITED ACTIVITIES

Contracts with Quasi-Public Agencies

The bill prohibits public officials and state employees (and their immediate family members and associated businesses) from entering into contracts worth \$100 or more with quasi-public agencies, unless the contract was (1) awarded through an open and public process or (2) pursuant to a court appointment. By law, this prohibition already applies (with additional exceptions) to contracts with state agencies.

By law, an associated business is any business entity in which a public official, state employee, or immediate family member is a director, officer, owner, limited or general partner, trust beneficiary, or a stockholder with 5% or more of the total outstanding stock in any class. Associated businesses do not include nonprofit entities for which the person is an unpaid officer or director (CGS § 1-79(2)).

Quasi-Public Agency Contractors

The bill extends, to quasi-public agency consultants and independent contractors, certain prohibitions in the Code of Ethics concerning unethical bidding or contracting practices that apply to state consultants and contractors. Specifically, it prohibits quasi-public agency consultants and contractors from:

1. abusing their contractual authority or using confidential information acquired in performing the contract to obtain financial gain for themselves, immediate family members, or their employees and their immediate family members;
2. accepting another state or quasi-public agency contract that impairs their judgment on the existing contract; or
3. accepting anything of value with the understanding that their actions on the quasi-public agency's behalf would be influenced by the transaction.

The bill also prohibits state agency consultants and contractors from accepting a quasi-public agency contract that impairs their judgment on the existing contract.

Additionally, the bill prohibits a person from giving anything of value to a quasi-public agency consultant or contractor with the understanding that the consultant or contractor, acting on behalf of the quasi-public agency, would be influenced by the gift.

Penalties

The bill subjects violators of the above prohibitions to existing law’s penalties for violating the Code of Ethics. By law, the Office of State Ethics (OSE) may levy a civil penalty of up to \$10,000 per violation. Additionally, a person who intentionally violates the code is guilty of a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both, for a first violation (or a class D felony if the violator derived a financial benefit of at least \$1,000 from the violation) and a class D felony for subsequent violations. A class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

The bill also makes violators liable to the state for damages if they knowingly benefit financially from the above activities. Damages equal the amount of the financial advantage for consultants and contractors. If a public official or state employee enters into a contract with a quasi-public agency as described above, the state may recover the amount of the financial advantage and up to twice the actual damages. OSE must immediately inform the attorney general of the violation (CGS §§ 1-88 and -89).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 15 Nay 0 (02/26/2015)