

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 21-164—sHB 6574

Government Administration and Elections Committee

AN ACT CONCERNING REVISIONS TO THE STATE CODES OF ETHICS

SUMMARY: This act makes numerous changes to the state codes of ethics for public officials and lobbyists by:

1. adding the Paid Family and Medical Leave Insurance Authority to the list of quasi-public agencies subject to the ethics code for public officials (§ 2);
2. defining confidential information for the law's purposes as similarly defined in regulations (§ 3);
3. authorizing the Office of State Ethics (OSE) ethics enforcement officer (whom the act specifies must belong to the Connecticut bar) to represent the office in certain matters before the Superior Court (§§ 4 & 5);
4. requiring the public officials and state employees who must file statements of financial interests with OSE to file them electronically using software the office creates (§ 7, see BACKGROUND);
5. exempting certain gifts from the codes' gift prohibition (§§ 1 & 12) and clarifying who must report certain expenditures to a beneficiary public official or state employee (§ 8);
6. requiring certain state regulatory agencies, in consultation with OSE, to annually submit a statement designating the agency positions that are subject to the public officials' code's revolving door provisions (§ 9);
7. extending the prohibited activities that apply to state-hired consultants and independent contractors to include persons they employ (§ 10);
8. exempting students serving as public officials from certain code provisions (§ 11);
9. extending the Citizen's Ethics Advisory Board's (CEAB) deadline for final hearing decisions on violations (§§ 6 & 13); and
10. clarifying that both individuals employing lobbyists and those employed as lobbyists are subject to the Code of Ethics for Lobbyists' prohibition on contingency fee lobbying (§ 14).

The act repeals several obsolete provisions related to the 2005 transfer of OSE from the State Ethics Commission and extending deadlines for probable cause hearings in the same year. It also repeals a requirement that OSE conduct annual conferences on ethical issues (§ 15).

Finally, the act makes numerous technical and conforming changes.

EFFECTIVE DATE: October 1, 2021, except the provision defining the Paid Family and Medical Leave Insurance Authority as a quasi-public agency is effective July 1, 2021.

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§§ 1, 3, 8 & 11-12 — STATE ETHICS CODES

Gift Exemption (§§ 1 & 12)

The State Codes of Ethics generally prohibit public officials and state employees from accepting gifts (generally anything of value exceeding \$10) from restricted donors (e.g., registered lobbyists and prequalified state contractors). They similarly prohibit restricted donors from making these gifts. However, existing law establishes several exemptions from these prohibitions, including one for gifts received from certain members of the individual's or his or her spouse's family.

The act additionally exempts gifts received from the individual's or spouse's grandparent.

Confidential Information (§ 3)

The Code of Ethics for Public Officials generally prohibits current and former public officials and state employees, as well as state consultants and independent contractors, from using, for financial gain, confidential information they acquire in performing their duties. "Confidential information" is defined in OSE's regulations, but it was not defined in prior state law (Conn. Agencies Reg. § 1-81-15).

The act codifies the definition in state law with minor changes. Under the act, confidential information is any information possessed by the state, a state employee, or a public official, whatever its form, that is (1) prohibited from disclosure to the general public under any state or federal law or (2) permissibly nondisclosable under the Freedom of Information Act, and the appropriate agency, state employee, or public official has decided not to disclose it to the general public.

Notice of Certain Donations (§ 8)

The act clarifies that a person who gives anything valued at more than \$10 to a public official or state employee (either directly or through a representative) must comply with certain reporting requirements if the person is (1) doing business with, or seeking to do business with, the official's or employee's employing department or agency or (2) engaged in activities that the department or agency directly regulates.

Under the reporting requirements, the donor must give the recipient's department or agency a written report within 10 days stating (1) the donor's name, (2) a description of the item or items given and their value, and (3) the cumulative value of all items given to the individual during the calendar year. The Code of Ethics for Lobbyists contains an identical reporting requirement (CGS § 1-97(d)).

College Student Exemption (§ 11)

The act extends, in part, the exemption from certain provisions of the Code of

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Ethics for Public Officials that applies to student employees of a state college or university to also apply to students who serve as public officials by virtue of their student status at a state college or university (e.g., a student member of the board of trustees). This includes exemptions from the code's provisions on prohibited activities, disclosure or use of confidential information, and conflicts of interest.

As under existing law for student employees, the above exemptions are valid only if the student's institution has (1) adopted related written policies and procedures and (2) the policies and procedures have been approved by CEAB. The law requires institutions to submit (1) their policies and procedures to the board triennially and (2) any significant revisions within 30 days of their adoption.

Under existing law, student employees are additionally exempt from (1) restrictions on certain expense-paid travel provided by prospective employers and (2) a requirement to wait one year before accepting certain post-employment opportunities (CGS §§ 1-79(5)(R) and 1-84b(h)).

§§ 9 & 10 — PROHIBITED ACTIVITIES UNDER THE ETHICS CODE

Positions Subject to Revolving Door Provisions (§ 9)

The Code of Ethics for Public Officials generally prohibits public officials and state employees in certain regulatory agencies who hold positions with significant decision-making or supervisory responsibilities from accepting employment for one year after leaving state service with a business subject to regulation by their former agency. (The prohibition is two years for certain employment in the gaming industry.) Under prior law, covered positions were designated by OSE, in consultation with the applicable agency, and adopted as regulations by CEAB.

By November 1, 2021, and at least annually from then on, the act instead requires the heads of certain executive branch regulatory agencies or their designees to electronically submit to OSE designations of all existing positions that are subject to these restrictions. They must do so in a manner CEAB prescribes. As under prior law, they must make these designations in consultation with OSE.

Under the act, the agency head or designee must submit any newly created positions that are subject to these provisions, but not included in the annual submission to OSE, within 30 days after the position's creation. OSE must prepare a list of all designated positions and post it on its website.

As under prior law, the designation requirement applies to the Office of Health Strategy's Health Systems Planning Unit; Connecticut Siting Council; Department of Banking; Insurance Department; Department of Emergency Services and Public Protection; the Public Utilities Regulatory Authority, including the Office of Consumer Counsel; and the Department of Consumer Protection.

Consultants and Independent Contractors (§ 10)

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The Code of Ethics for Public Officials prohibits state agency consultants and independent contractors from engaging in certain unethical bidding or contracting practices. The act extends these prohibitions to cover individuals employed by these consultants and independent contractors. In doing so, it prohibits these individuals from the following:

1. using their contractual authority, or any confidential information acquired in performing the contract, to obtain financial gain for themselves, immediate family members, or their employees and immediate family members;
2. accepting another state contract that impairs their judgment on the existing contract; or
3. accepting anything of value based on an understanding that it would influence their action on behalf of the state.

The law similarly prohibits a person from giving anything of value to a consultant or independent contractor hired by the state based on an understanding that it would influence the consultant's or independent contractor's actions. The act extends this prohibition to also cover giving anything of value to a consultant's or independent contractor's employee under these circumstances.

The act subjects violators of the above prohibitions to existing law's penalties for violating the Code of Ethics for Public Officials. By law, OSE may impose 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 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 (see Table on Penalties).

The act also makes violators liable to the state for damages equal to the amount of the financial advantage. CEAB must immediately inform the attorney general of the violation (CGS §§ 1-88 and -89).

§§ 4-6 & 13 — OFFICE OF STATE ETHICS & CITIZEN'S ETHICS ADVISORY BOARD

Ethics Enforcement Officer (§§ 4 & 5)

The act authorizes OSE's ethics enforcement officer (whom the act specifies must be a member of the Connecticut bar) to represent the office before the Superior Court in an appeal of any ruling or finding arising under the ethics codes for public officials, lobbyists, and state contractors as long as CEAB is not a party in the appeal (e.g., enforcing a subpoena). Under existing law, OSE's legal division (which is separate from the enforcement division) represents CEAB in all matters in which the board is a party (e.g., appeals of final decisions) unless the board requests the attorney general's assistance (CGS § 1-81(f)).

Complaint Procedures and Time Limits (§§ 6 & 13)

The act extends the deadline, from 15 to 45 days after a public hearing on a

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State Codes of Ethics violation, by which CEAB must publish its finding and a memorandum explaining the reasons for the finding (i.e., its final decision).

BACKGROUND

Statements of Financial Interest (SFI)

By law, a person must file an SFI if he or she is, among other things, a (1) statewide elected officer, legislator, department head or deputy department head, member or director of a quasi-public agency, or member of the Investment Advisory Council; (2) member of the Executive Department designated by the governor; or (3) quasi-public agency employee designated by the governor. The SFIs must be filed annually by May 1. Additionally, filers who leave their position or office must file a final SFI that covers their activities from the most recent filing through their departure. They must do so within 60 days after being notified by OSE.