



General Assembly

January Session, 2021

Committee Bill No. 296

LCO No. 4964



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT ESTABLISHING A RIGHT TO APPEAL THE DECISION OF A
MUNICIPAL ETHICS BOARD TO THE OFFICE OF STATE ETHICS.***

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

1 Section 1. Section 7-148h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) Any town, city, district, as defined in section 7-324, or borough
4 may, by charter provision or ordinance, establish a board, commission,
5 council, committee or other agency to investigate allegations of
6 unethical conduct, corrupting influence or illegal activities levied
7 against any official, officer or employee of such town, city, district or
8 borough. The provisions of subsections (a) to (e), inclusive, of section
9 1-82a, as amended by this act, shall apply to allegations before any such
10 agency of such conduct, influence or activities, to an investigation of
11 such allegations conducted prior to a probable cause finding, and to a
12 finding of probable cause or no probable cause. Any board, commission,
13 council, committee or other agency established pursuant to this section
14 may issue subpoenas or subpoenas duces tecum, enforceable upon
15 application to the Superior Court, to compel the attendance of persons

16 at hearings and the production of books, documents, records and
17 papers.

18 (b) Notwithstanding the provisions of any special act, municipal
19 charter or ordinance to the contrary, an elected official of any town, city,
20 district or borough that has established a board, commission, council,
21 committee or other agency under subsection (a) of this section, has an
22 interest that is in substantial conflict with the proper discharge of the
23 official's duties or employment in the public interest and of the official's
24 responsibilities as prescribed by the laws of this state, if the official has
25 reason to believe or expect that the official, the official's spouse or
26 dependent child, or a business with which he is associated, as defined
27 in section 1-79, will derive a direct monetary gain or suffer a direct
28 monetary loss, as the case may be, by reason of the official's official
29 activity. Any such elected official does not have an interest that is in
30 substantial conflict with the proper discharge of the official's duties in
31 the public interest and of the official's responsibilities as prescribed by
32 the laws of this state, if any benefit or detriment accrues to the official,
33 the official's spouse or dependent child, or a business with which he, his
34 spouse or such dependent child is associated as a member of a
35 profession, occupation or group to no greater extent than to any other
36 member of such profession, occupation or group. Any such elected
37 official who has a substantial conflict may not take official action on the
38 matter.

39 (c) Any person who is aggrieved by the decision of a board,
40 commission, council, committee or other agency established under
41 subsection (a) of this section that presents an issue of law shall have a
42 right to appeal such decision to the Office of State Ethics under part I of
43 chapter 10.

44 Sec. 2. Subsection (a) of section 1-81 of the general statutes is repealed
45 and the following is substituted in lieu thereof (*Effective October 1, 2021*):

46 (a) The board and general counsel and staff of the Office of State
47 Ethics shall:

48 (1) Compile and maintain an index of all reports, advisory opinions,
49 informal staff letters, memoranda issued in accordance with subsection
50 (b) of section 1-82, as amended by this act, and statements filed by and
51 with the Office of State Ethics to facilitate public access to such reports
52 and advisory opinions, informal staff letters, memoranda statements as
53 provided by this part;

54 (2) Preserve advisory opinions and informal staff letters,
55 permanently; preserve memoranda issued in accordance with
56 subsection (b) of section 1-82, as amended by this act, and statements
57 and reports filed by and with the board for a period of five years from
58 the date of receipt;

59 (3) Upon the concurring vote of a majority of the board present and
60 voting, issue advisory opinions with regard to the requirements of this
61 part or part IV of this chapter, upon the request of any person subject to
62 the provisions of this part or part IV of this chapter, and publish such
63 advisory opinions in the Connecticut Law Journal. Advisory opinions
64 rendered by the board, until amended or revoked, shall be binding on
65 the board and shall be deemed to be final decisions of the board for
66 purposes of appeal to the superior court, in accordance with the
67 provisions of section 4-175 or 4-183. Any advisory opinion concerning
68 the person who requested the opinion and who acted in reliance
69 thereon, in good faith, shall be binding upon the board, and it shall be
70 an absolute defense in any criminal action brought under the provisions
71 of this part or part IV of this chapter, that the accused acted in reliance
72 upon such advisory opinion;

73 (4) Respond to inquiries and provide advice regarding the code of
74 ethics either verbally or through informal letters;

75 (5) Hear appeals filed by an aggrieved person concerning decisions
76 of a municipal board, commission, council, committee or other agency
77 established under subsection (a) of section 7-148h, as amended by this
78 act, that present an issue of law;

79 [(5)] (6) Provide yearly training to all state employees regarding the
80 code of ethics;

81 [(6)] (7) Make legislative recommendations to the General Assembly
82 and report annually, not later than February fifteenth, to the Governor
83 summarizing the activities of the Office of State Ethics; and

84 [(7)] (8) Meet not less than once per month with the office's executive
85 director and ethics enforcement officer.

86 Sec. 3. Section 1-82 of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective October 1, 2021*):

88 (a) (1) Upon the complaint of any person on a form prescribed by the
89 board, signed under penalty of false statement, or upon its own
90 complaint, the ethics enforcement officer of the Office of State Ethics
91 shall investigate any alleged violation of this part, section 1-101bb or
92 section 1-101nn or an appeal of a decision made under section 7-148h,
93 as amended by this act. Not later than five days after the receipt or
94 issuance of such complaint, the board shall provide notice of such
95 receipt or issuance and a copy of the complaint by registered or certified
96 mail to any respondent against whom such complaint is filed and shall
97 provide notice of the receipt of such complaint to the complainant.
98 When the ethics enforcement officer of the Office of State Ethics
99 undertakes an evaluation of a possible violation of this part, section 1-
100 101bb or section 1-101nn or an appeal of a decision made under section
101 7-148h, as amended by this act, prior to the filing of a complaint, the
102 subject of the evaluation shall be notified not later than five business
103 days after an Office of State Ethics staff member's first contact with a
104 third party concerning the matter.

105 (2) In the conduct of its investigation of an alleged violation of this
106 part, section 1-101bb or section 1-101nn or an appeal of a decision made
107 under section 7-148h, as amended by this act, the Office of State Ethics
108 shall have the power to hold hearings, administer oaths, examine
109 witnesses and receive oral and documentary evidence. The Office of

110 State Ethics may subpoena witnesses under procedural rules adopted
111 by the Citizen's Ethics Advisory Board as regulations in accordance with
112 the provisions of chapter 54 to compel attendance before the Office of
113 State Ethics and to require the production for examination by the ethics
114 enforcement officer of the Office of State Ethics of any books and papers
115 which the Office of State Ethics deems relevant in any matter under
116 investigation or in question, provided any such subpoena is issued
117 either pursuant to a majority vote of the Citizen's Ethics Advisory Board
118 or pursuant to the signature of the chairperson of such board. The vice-
119 chairperson of such board may sign any such subpoena if the
120 chairperson of such board is unavailable. In the exercise of such powers,
121 the Office of State Ethics may use the services of the state police, who
122 shall provide the same upon the office's request. The Office of State
123 Ethics shall make a record of all proceedings conducted pursuant to this
124 subsection. The ethics enforcement officer of the Office of State Ethics
125 may bring any alleged violation of this part before a judge trial referee
126 assigned by the Chief Court Administrator for such purpose for a
127 probable cause hearing. Such judge trial referee shall be compensated in
128 accordance with the provisions of section 52-434 from such funds as
129 may be available to the Office of State Ethics. Any witness summoned
130 before the Office of State Ethics or a judge trial referee pursuant to this
131 subsection shall receive the witness fee paid to witnesses in the courts
132 of this state. During any investigation conducted pursuant to this
133 subsection or any probable cause hearing conducted pursuant to this
134 subsection, the respondent shall have the right to appear and be heard
135 and to offer any information which may tend to clear the respondent of
136 probable cause to believe the respondent has violated any provision of
137 this part, section 1-101bb or section 1-101nn or made an incorrect
138 decision on an issue of law under section 7-148h, as amended by this act.
139 The respondent shall also have the right to be represented by legal
140 counsel and to examine and cross-examine witnesses. Not later than ten
141 days prior to the commencement of any hearing conducted pursuant to
142 this subsection, the Office of State Ethics shall provide the respondent
143 with a list of its intended witnesses. Any finding of probable cause to

144 believe the respondent is in violation of any provisions of this part shall
145 be made by a judge trial referee not later than thirty days after the ethics
146 enforcement officer brings such alleged violation before such judge trial
147 referee, except that such thirty-day limitation period shall not apply if
148 the judge trial referee determines that good cause exists for extending
149 such limitation period.

150 (b) If a judge trial referee determines that probable cause exists for
151 the violation of a provision of this part, section 1-101bb or section 1-
152 101nn or an incorrect decision on an issue of law under section 7-148h,
153 as amended by this act, the board shall initiate hearings to determine
154 whether there has been a violation of this part, section 1-101bb or section
155 1-101nn or an incorrect decision on an issue of law under section 7-148h,
156 as amended by this act. Any such hearing shall be initiated by the board
157 not later than thirty days after the finding of probable cause by a judge
158 trial referee and shall be concluded not later than ninety days after its
159 initiation, except that such thirty or ninety-day limitation period shall
160 not apply if the judge trial referee determines that good cause exists for
161 extending such limitation period. A judge trial referee, who has not
162 taken part in the probable cause determination on the matter shall be
163 assigned by the Chief Court Administrator and shall be compensated in
164 accordance with section 52-434 out of funds available to the Office of
165 State Ethics. Such judge trial referee shall preside over such hearing and
166 rule on all issues concerning the application of the rules of evidence,
167 which shall be the same as in judicial proceedings. The judge trial referee
168 shall have no vote in any decision of the board. All hearings of the board
169 held pursuant to this subsection shall be open. At such hearing the
170 board shall have the same powers as the Office of State Ethics under
171 subsection (a) of this section and the respondent shall have the right to
172 be represented by legal counsel, to compel attendance of witnesses and
173 the production of books, documents, records and papers and to examine
174 and cross-examine witnesses. Not later than ten days prior to the
175 commencement of any hearing conducted pursuant to this subsection,
176 the Office of State Ethics shall provide the respondent with a list of its
177 intended witnesses. The judge trial referee shall, while engaged in the

178 discharge of the duties as provided in this subsection, have the same
179 authority as is provided in section 51-35 over witnesses who refuse to
180 obey a subpoena or to testify with respect to any matter upon which
181 such witness may be lawfully interrogated, and may commit any such
182 witness for contempt for a period no longer than thirty days. The Office
183 of State Ethics shall make a record of all proceedings pursuant to this
184 subsection. During the course of any such hearing, no ex-parte
185 communication shall occur between the board, or any of its members,
186 and: (1) The judge trial referee, or (2) any staff member of the
187 Enforcement Division of the Office of State Ethics, concerning the
188 complaint or the respondent. The board shall find no person in violation
189 of any provision of this part, section 1-101bb or section 1-101nn or a
190 finding of an incorrect decision on an issue of law under section 7-148h,
191 as amended by this act, except upon the concurring vote of two-thirds
192 of its members present and voting. No member of the board shall vote
193 on the question of whether a violation of any provision of this part has
194 occurred unless such member was physically present for the duration
195 of any hearing held pursuant to this subsection. Not later than fifteen
196 days after the public hearing conducted in accordance with this
197 subsection, the board shall publish its finding and a memorandum of
198 the reasons therefor. Such finding and memorandum shall be deemed
199 to be the final decision of the board on the matter for the purposes of
200 chapter 54. The respondent, if aggrieved by the finding and
201 memorandum, may appeal therefrom to the Superior Court in
202 accordance with the provisions of section 4-183, except a finding
203 concerning an issue of law for an appeal filed under section 7-148h, as
204 amended by this act, shall not be appealable to the Superior Court.

205 (c) If a judge trial referee finds, after a hearing pursuant to this
206 section, that there is no probable cause to believe that a public official or
207 state employee has violated a provision of this part, section 1-101bb or
208 section 1-101nn, or if the board determines that a public official or state
209 employee has not violated any such provision, or if a court of competent
210 jurisdiction overturns a finding by the board of a violation by such a
211 respondent, the state shall pay the reasonable legal expenses of the

212 respondent as determined by the Attorney General or by the court if
213 appropriate. If any complaint brought under the provisions of this part,
214 section 1-101bb or section 1-101nn is made with the knowledge that it is
215 made without foundation in fact, the respondent shall have a cause of
216 action against the complainant for double the amount of damage caused
217 thereby and, if the respondent prevails in such action, the respondent
218 may be awarded by the court the costs of such action together with
219 reasonable attorneys' fees.

220 (d) No complaint may be made under this section later than five years
221 after the violation alleged in the complaint has been committed.

222 (e) No person shall take or threaten to take official action against an
223 individual for such individual's disclosure of information to the board
224 or the general counsel, ethics enforcement officer or staff of the Office of
225 State Ethics under the provisions of this part, section 1-101bb or section
226 1-101nn or an appeal under section 7-148h, as amended by this act. After
227 receipt of information from an individual under the provisions of this
228 part, section 1-101bb or section 1-101nn or an appeal under section 7-
229 148h, as amended by this act, the Office of State Ethics shall not disclose
230 the identity of such individual without such individual's consent unless
231 the Office of State Ethics determines that such disclosure is unavoidable
232 during the course of an investigation. No person shall be subject to civil
233 liability for any good faith disclosure that such person makes to the
234 Office of State Ethics.

235 Sec. 4. Section 1-82a of the general statutes is repealed and the
236 following is substituted in lieu thereof (*Effective October 1, 2021*):

237 (a) Unless a judge trial referee makes a finding of probable cause, a
238 complaint alleging a violation of this part, section 1-101bb or section 1-
239 101nn or an incorrect decision on an issue of law under section 7-148h,
240 as amended by this act, shall be confidential except upon the request of
241 the respondent. An evaluation of a possible violation of this part, section
242 1-101bb or section 1-101nn or a possible incorrect decision on an issue of
243 law under section 7-148h, as amended by this act, by the Office of State

244 Ethics prior to the filing of a complaint shall be confidential except upon
245 the request of the subject of the evaluation. If the evaluation is
246 confidential, any information supplied to or received from the Office of
247 State Ethics shall not be disclosed to any third party by a subject of the
248 evaluation, a person contacted for the purpose of obtaining information
249 or by the ethics enforcement officer or staff of the Office of State Ethics.
250 No provision of this subsection shall prevent the Office of State Ethics
251 from reporting the possible commission of a crime to the Chief State's
252 Attorney or other prosecutorial authority.

253 (b) An investigation conducted prior to a probable cause finding shall
254 be confidential except upon the request of the respondent. If the
255 investigation is confidential, the allegations in the complaint and any
256 information supplied to or received from the Office of State Ethics shall
257 not be disclosed during the investigation to any third party by a
258 complainant, respondent, witness, designated party, or board or staff
259 member of the Office of State Ethics.

260 (c) Not later than three business days after the termination of the
261 investigation, the Office of State Ethics shall inform the complainant and
262 the respondent of its finding and provide them a summary of its reasons
263 for making that finding. The Office of State Ethics shall publish its
264 finding upon the respondent's request and may also publish a summary
265 of its reasons for making such finding.

266 (d) If a judge trial referee makes a finding of no probable cause, the
267 complaint and the record of the Office of State Ethics' investigation shall
268 remain confidential, except upon the request of the respondent and
269 except that some or all of the record may be used in subsequent
270 proceedings. No complainant, respondent, witness, designated party, or
271 board or staff member of the Office of State Ethics shall disclose to any
272 third party any information learned from the investigation, including
273 knowledge of the existence of a complaint, which the disclosing party
274 would not otherwise have known. If such a disclosure is made, the judge
275 trial referee may, after consultation with the respondent if the

276 respondent is not the source of the disclosure, publish the judge trial
277 referee's finding and a summary of the judge trial referee's reasons
278 therefor.

279 (e) The judge trial referee shall make public a finding of probable
280 cause not later than five business days after any such finding. At such
281 time the entire record of the investigation shall become public, except
282 that the Office of State Ethics may postpone examination or release of
283 such public records for a period not to exceed fourteen days for the
284 purpose of reaching a stipulation agreement pursuant to subsection (c)
285 of section 4-177. Any such stipulation agreement or settlement shall be
286 approved by a majority of those members present and voting.

287 Sec. 5. Section 1-88 of the general statutes is repealed and the
288 following is substituted in lieu thereof (*Effective October 1, 2021*):

289 (a) (1) The board, upon a finding made pursuant to section 1-82, as
290 amended by this act, that there has been a violation of any provision of
291 this part, section 1-101bb or section 1-101nn, shall have the authority to
292 order the violator to do any or all of the following: [(1)] (A) Cease and
293 desist the violation of this part, section 1-101bb or section 1-101nn; [(2)]
294 (B) file any report, statement or other information as required by this
295 part, section 1-101bb or section 1-101nn; and [(3)] (C) pay a civil penalty
296 of not more than ten thousand dollars for each violation of this part,
297 section 1-101bb or section 1-101nn.

298 (2) The board, upon a finding made pursuant to section 1-82, as
299 amended by this act, that there has been an incorrect decision on an
300 issue of law under section 7-148h, as amended by this act, shall remand
301 the case to the municipal board, commission, council, committee or
302 other agency established under subsection (a) of section 7-148h, as
303 amended by this act, for any remedies authorized by law.

304 (b) Notwithstanding the provisions of subsection (a) of this section,
305 the board may, after a hearing conducted in accordance with sections 4-
306 176e to 4-184, inclusive, upon the concurring vote of two-thirds of its

307 members present and voting, impose a civil penalty not to exceed ten
308 dollars per day upon any individual who fails to file any report,
309 statement or other information as required by this part, section 1-101bb
310 or section 1-101nn. Each distinct violation of this subsection shall be a
311 separate offense and in case of a continued violation, each day thereof
312 shall be deemed a separate offense. In no event shall the aggregate
313 penalty imposed for such failure to file exceed ten thousand dollars.

314 (c) The board may also report its finding to the Chief State's Attorney
315 for any action deemed necessary. The board, upon a finding made
316 pursuant to section 1-82, as amended by this act, that a member or
317 member-elect of the General Assembly has violated any provision of
318 this part, section 1-101bb or section 1-101nn, shall notify the appropriate
319 house of the General Assembly, in writing, of such finding and the basis
320 for such finding.

321 (d) Any person who knowingly acts in such person's financial interest
322 in violation of section 1-84, 1-85, 1-86, 1-86d, 1-86e or 1-101nn or any
323 person who knowingly receives a financial advantage resulting from a
324 violation of any of said sections shall be liable for damages in the
325 amount of such advantage. If the board determines that any person may
326 be so liable, it shall immediately inform the Attorney General of that
327 possibility.

328 (e) Any employee of the Office of State Ethics or member of the
329 Citizen's Ethics Advisory Board who, in violation of this part or section
330 1-101nn, discloses information filed in accordance with subparagraph
331 (F) of subdivision (1) of subsection (b) of section 1-83, shall be dismissed,
332 if an employee, or removed from the board, if a member.

333 (f) Any civil penalty imposed by the board pursuant to this section
334 may be enforced by the Office of State Ethics as a money judgment in
335 accordance with chapter 906.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	7-148h
Sec. 2	<i>October 1, 2021</i>	1-81(a)
Sec. 3	<i>October 1, 2021</i>	1-82
Sec. 4	<i>October 1, 2021</i>	1-82a
Sec. 5	<i>October 1, 2021</i>	1-88

Statement of Purpose:

To permit aggrieved parties to appeal a local municipal ethics board decision to the Office of State Ethics.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOPES, 6th Dist.; REP. FISHBEIN, 90th Dist.

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