

1 Introduced by Committee on Government Operations and Military Affairs

2 Date:

3 Subject: Executive; governmental ethics; State Ethics Commission; State Code
4 of Ethics

5 Statement of purpose of bill as introduced: This bill proposes to require that
6 certain county officers both running for and holding office file financial
7 disclosures. It proposes to modify disclosure requirements for certain elected
8 officers both running for and holding office. This bill will create penalties for
9 delinquent disclosures for candidates for State office, county office, State
10 Senator, and State Representative. It will grant the State Ethics Commission
11 powers to perform supplemental investigations and hearings and to issue
12 warnings, reprimands, and recommended actions. This bill will create a full-
13 time, exempt Legal Counsel position in the State Ethics Commission and
14 reclassify the Executive Director of the State Ethics Commission from a part-
15 time to a full-time, exempt State employee. It will also add a member to the
16 State Ethics Commission to be appointed by the Vermont League of Cities and
17 Towns.

18 An act relating to the State Ethics Commission and the State Code of Ethics

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Candidate Financial Disclosure Requirements * * *

3 Sec. 1. 17 V.S.A. § 2414 is amended to read:

4 § 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;

5 DISCLOSURE FORM

6 (a) Each candidate for State office, county office, State Senator, or State
7 Representative shall file with the officer with whom consent of candidate
8 forms are filed, along with ~~his or her~~ the candidate's consent, a disclosure form
9 prepared by the State Ethics Commission that contains the following
10 information in regard to the previous ~~calendar year~~ 12 months:

11 (1) ~~Each each~~ source, but not amount, of personal income of the
12 candidate and of ~~his or her~~ the candidate's spouse or domestic partner, and of
13 the candidate together with ~~his or her~~ the candidate's spouse or domestic
14 partner, that totals more than \$5,000.00, ~~including any of the sources meeting~~
15 ~~that total described as follows:~~

16 (A) ~~employment~~, including the officer's employer or business name
17 and address; and,

18 (B) if self-employed, a description of the nature of the self-
19 employment ~~without needing to disclose any individual clients~~, including:

20 (i) the names of any clients, known to the candidate or the
21 candidate's domestic partner to have had business before any municipal or

1 State office, department, or agency, provided that the disclosed information is
2 not confidential information; and

3 (ii) the names of clients from whom the candidate or candidate’s
4 spouse or domestic partner has received \$10,000.00 or more, provided that the
5 disclosed information is not confidential information; and

6 ~~(B) investments, described generally as “investment income.”~~

7 (2) ~~Any any~~ board, commission, or other entity that is regulated by law
8 ~~or that receives funding from the State~~ on which the candidate served and the
9 candidate’s position on that entity;

10 (3)(A) ~~Any any~~ company of which the candidate or ~~his or her~~ the
11 candidate’s spouse or domestic partner, or the candidate together with his or
12 her the candidate’s spouse or domestic partner, owned more than 10 percent;
13 and

14 (B) the details of any loan made to any applicable company in
15 subdivision (A) of this subdivision (3) that is not a commercially reasonable
16 loan made in the ordinary course of business;

17 (4) any company of which the candidate or the candidate’s spouse or
18 domestic partner, or the candidate together with the candidate’s spouse or
19 domestic partner, had an ownership or controlling interest in any amount, and
20 in the previous 12 months the company had business before or with any
21 municipal or State office, agency, or department;

1 (5) ~~Any~~ any lease or contract with the State held or entered into by:

2 (A) the candidate or ~~his or her~~ the candidate's spouse or domestic
3 partner; or

4 (B) a company of which the candidate or ~~his or her~~ the candidate's
5 spouse or domestic partner, or the candidate together with ~~his or her~~ the
6 candidate's spouse or domestic partner, owned more than 10 percent;

7 (6) a description, but not amount, to the best of the candidate's
8 knowledge, of the following investments held by a candidate or the candidate's
9 spouse or domestic partner:

10 (A) publicly traded assets valued at \$25,000.00 or more, which shall
11 be listed individually;

12 (B) interests in trusts valued at \$25,000.00 or more, which shall be
13 listed individually; and

14 (C) municipal bonds issued in the State of Vermont of any value,
15 which shall be listed individually; and

16 (7) the full name of the officer's spouse or domestic partner.

17 (b) In addition, if a candidate's spouse or domestic partner is a lobbyist, the
18 candidate shall disclose that fact and provide the name of ~~his or her~~ the
19 candidate's spouse or domestic partner and, if applicable, the name of ~~his or~~
20 ~~her~~ the candidate's lobbying firm.

1 (c) In addition, each candidate for State office shall attach to the disclosure
2 form described in subsection (a) of this section a copy of ~~his or her~~ the
3 candidate's most recent U.S. Individual Income Tax Return Form 1040;
4 provided, however, that the candidate may redact from that form the following
5 information:

6 (1) the candidate's Social Security number and that of ~~his or her~~ the
7 candidate's spouse, if applicable;

8 (2) the names of any dependent and the dependent's Social Security
9 number; ~~and~~

10 (3) the signature of the candidate and that of ~~his or her~~ the candidate's
11 spouse, if applicable;

12 (4) the candidate's street address; and

13 (5) any identifying information and signature of a paid preparer.

14 (d)(1) A senatorial district clerk or representative district clerk who
15 receives a disclosure form under this section shall forward a copy of the
16 disclosure to the Secretary of State within three business days ~~of~~ after
17 receiving it.

18 (2)(A) The Secretary of State shall post a copy of any disclosure forms
19 and tax returns ~~he or she~~ the Secretary receives under this section on ~~his or her~~
20 the Secretary's official State website. The forms shall remain posted on the
21 Secretary's website until the date of the filing deadline for petition and consent

1 forms for major party candidates for the statewide primary in the following
2 election cycle.

3 * * *

4 (e) As used in this section:

5 (1) “Commercially reasonable loan made in the ordinary course of
6 business” means a loan made:

7 (A) in the usual manner on any recognized market;

8 (B) at the price current in any recognized market at the time of
9 making the loan; or

10 (C) otherwise in conformity with reasonable commercial practices
11 among lenders typically dealing in the type of loan made.

12 (2) “Confidential information” means information that is exempt from
13 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
14 designated by law as confidential.

15 (3) “County office” means the office of assistant judge of the Superior
16 Court, high bailiff, judge of Probate, sheriff, or State’s Attorney.

17 (4) “Domestic partner” means an individual with whom the candidate
18 has an enduring domestic relationship of a spousal nature, as long as provided
19 the candidate and the domestic partner:

20 * * *

1 ~~(2)~~(5) “Lobbyist” and “lobbying firm” ~~shall~~ have the same meanings as
2 in 2 V.S.A. § 261.

3 * * * In-Office Financial Disclosure Requirements * * *

4 Sec. 2. 3 V.S.A. § 1201 is amended to read:

5 § 1201. DEFINITIONS

6 As used in this chapter:

7 (1) “Candidate” and “candidate’s committee” have the same meanings
8 as in 17 V.S.A. § 2901.

9 (2) “Commission” means the State Ethics Commission established
10 under subchapter 3 of this chapter.

11 (3) “Confidential information” means information that is exempt from
12 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
13 designated by law as confidential.

14 (4) “Conflict of interest” means a direct or indirect interest of a public
15 servant or such an interest, known to the public servant, of a member of the
16 public servant’s immediate family, or of a business associate, in the outcome
17 of a particular matter pending before the public servant or the public servant’s
18 public body, or that is in conflict with the proper discharge of the public
19 servant’s duties. “Conflict of interest” does not include any interest that is not
20 greater than that of other individuals generally affected by the outcome of a
21 matter.

1 (5) “County officer” means an individual holding the office of high
2 bailiff or State’s Attorney.

3 (6) “Domestic partner” means an individual in an enduring domestic
4 relationship of a spousal nature with the Executive officer or the public
5 servant, provided the individual and Executive officer or public servant:

6 (A) have shared a residence for at least six consecutive months;

7 (B) are at least 18 years of age;

8 (C) are not married to or considered a domestic partner of another
9 individual;

10 (D) are not related by blood closer than would bar marriage under
11 State law; and

12 (E) have agreed between themselves to be responsible for each
13 other’s welfare.

14 (5)(7) “Executive officer” means:

15 (A) a State officer; or

16 (B) a deputy under the Office of the Governor ~~a State officer,~~
17 including an agency secretary or deputy, ~~or~~ and a department commissioner or
18 deputy.

19 (6)(8) “Governmental conduct regulated by law” means conduct by an
20 individual in regard to the operation of State government that is restricted or
21 prohibited by law and includes:

- 1 (A) bribery pursuant to 13 V.S.A. § 1102;
- 2 (B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006
3 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;
- 4 (C) taking illegal fees pursuant to 13 V.S.A. § 3010;
- 5 (D) false claims against government pursuant to 13 V.S.A. § 3016;
- 6 (E) owning or being financially interested in an entity subject to a
7 department’s supervision pursuant to section 204 of this title;
- 8 (F) failing to devote time to duties of office pursuant to section 205
9 of this title;
- 10 (G) engaging in retaliatory action due to a State employee’s
11 involvement in a protected activity pursuant to chapter 27, subchapter 4A of
12 this title;
- 13 (H) a former legislator or former Executive officer serving as a
14 lobbyist pursuant to 2 V.S.A. § 266(b); ~~and~~
- 15 (I) a former Executive officer serving as an advocate pursuant to
16 section 267 of this title; and
- 17 (J) creating or permitting to persist any unlawful employment
18 practice pursuant to 21 V.S.A. § 495.
- 19 ~~(7)~~(9) “Immediate family” means an individual’s spouse, domestic
20 partner, or civil union partner; child or foster child; sibling; parent; or such

1 relations by marriage or by civil union or domestic partnership; or an
2 individual claimed as a dependent for federal income tax purposes.

3 ~~(8)~~(10) “Lobbyist” and “lobbying firm” have the same meanings as in
4 2 V.S.A. § 261.

5 ~~(9)~~(11) “Person” means any individual, group, business entity,
6 association, or organization.

7 ~~(40)~~(12) “Political committee” and “political party” have the same
8 meanings as in 17 V.S.A. § 2901.

9 (13) “Public servant” means an individual elected or appointed to serve
10 as a State officer, an individual elected or appointed to serve as a member of
11 the General Assembly, a State employee, an individual appointed to serve on a
12 State board or commission, or an individual who in any other way is
13 authorized to act or speak on behalf of the State.

14 ~~(44)~~(14) “State officer” means the Governor, Lieutenant Governor,
15 Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

16 (15) “Unethical conduct” means any conduct of a public servant in
17 violation of the Code of Ethics, as provided for in this chapter.

18 Sec. 3. 3 V.S.A. § 1202 is amended to read:

19 § 1202. STATE CODE OF ETHICS; APPLICABILITY

20 (a) Unless excluded under this section, the Code of Ethics applies to all
21 ~~individuals elected or appointed to serve as officers of the State, all individuals~~

1 ~~elect~~ed or appointed to serve as members of the General Assembly, all State
2 employees, all individuals appointed to serve on State boards and
3 commissions, and individuals who in any other way are authorized to act or
4 speak on behalf of the State. This code refers to them all as public servants.

5 * * *

6 Sec. 4. 3 V.S.A. § 1203 is amended to read:

7 § 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF
8 INTEREST

9 (a) Conflict of interest; appearance of conflict of interest.

10 (1) In the public servant's official capacity, the public servant shall
11 avoid any conflict of interest or the appearance of a conflict of interest. The
12 appearance of a conflict shall be determined from the perspective of a
13 reasonable individual with knowledge of the relevant facts.

14 (2) Except as otherwise provided in subsections (b) and (c) of this
15 section, when confronted with a conflict of interest, a public servant shall
16 recuse themselves from the matter and not take further action.

17 (3) ~~As used in this section, "conflict of interest" means a direct or~~
18 ~~indirect interest of a public servant or such an interest, known to the public~~
19 ~~servant, of a member of the public servant's immediate family or household, or~~
20 ~~of a business associate, in the outcome of a particular matter pending before~~
21 ~~the public servant or the public servant's public body, or that is in conflict with~~

1 ~~the proper discharge of the public servant’s duties. “Conflict of interest” does~~
2 ~~not include any interest that is not greater than that of other individuals~~
3 ~~generally affected by the outcome of a matter. [Repealed.]~~

4 * * *

5 Sec. 5. 3 V.S.A. § 1211 is amended to read:

6 § 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

7 (a) Annually, each Executive officer and county officer shall file with the
8 State Ethics Commission a disclosure form that contains the following
9 information in regard to the previous 12 months:

10 (1) ~~Each~~ each source, but not amount, of personal income of the officer
11 and of ~~his or her~~ the officer’s spouse or domestic partner, and of the officer
12 together with ~~his or her~~ the officer’s spouse or domestic partner, that totals
13 more than \$5,000.00, including ~~any of the sources meeting that total described~~
14 ~~as follows:~~

15 (A) ~~employment, including~~ the officer’s employer or business name
16 and address; and,

17 (B) if self-employed, a description of the nature of the self-
18 employment ~~without needing to disclose any individual clients, including:~~

19 (i) the names of any clients, known to the candidate or the
20 candidate’s domestic partner to have had business before any municipal or

1 State office, department, or agency, provided that the disclosed information is
2 not confidential information; and

3 (ii) the names of clients from whom the officer or officer’s spouse
4 or domestic partner has received \$10,000.00 or more, provided that the
5 disclosed information is not confidential information; and

6 ~~(B) investments, described generally as “investment income.”~~

7 (2) ~~Any any~~ board, commission, or other entity that is regulated by law
8 ~~or that receives funding from the State~~ on which the officer served and the
9 officer’s position on that entity;

10 (3)(A) ~~Any any~~ company of which the officer or ~~his or her~~ the officer’s
11 spouse or domestic partner, or the officer together with his or her the officer’s
12 spouse or domestic partner, owned more than 10 percent; and

13 (B) the details of any loan made to any applicable company in
14 subdivision (A) of this subdivision (3) that is not a commercially reasonable
15 loan made in the ordinary course of business;

16 (4) any company of which the officer or the officer’s spouse or domestic
17 partner, or the officer together with the officer’s spouse or domestic partner,
18 had an ownership or controlling interest in any amount, and the company had
19 business before or with any municipal or State office, agency, or department;

20 (5) ~~Any any~~ lease or contract with the State held or entered into by:

1 (A) the officer or ~~his or her~~ the officer's spouse or domestic partner;

2 or

3 (B) a company of which the officer or ~~his or her~~ the officer's spouse
4 or domestic partner, or the officer together with ~~his or her~~ the officer's spouse
5 or domestic partner, owned more than 10 percent;

6 (6) a description, but not amount, to the best of the candidate's
7 knowledge, of the following investments held by a candidate or the candidate's
8 spouse or domestic partner:

9 (A) publicly traded assets valued at \$25,000.00 or more, which shall
10 be listed individually;

11 (B) interests in trusts valued at \$25,000.00 or more, which shall be
12 listed individually; and

13 (C) municipal bonds issued in the State of Vermont of any value,
14 which shall be listed individually; and

15 (7) the full name of the officer's spouse or domestic partner.

16 (b) In addition, if an Executive officer's or county officer's spouse or
17 domestic partner is a lobbyist, the officer shall disclose that fact and provide
18 the name of ~~his or her~~ the officer's spouse or domestic partner and, if
19 applicable, the name of ~~his or her~~ the officer's lobbying firm.

1 (c)(1) Disclosure forms shall contain the statement, “I certify that the
2 information provided on all pages of this disclosure form is true to the best of
3 my knowledge, information, and belief.”

4 (2) Each Executive officer and county officer shall sign ~~his or her~~ the
5 officer’s disclosure form in order to certify it in accordance with this
6 subsection.

7 (d)(1) ~~An~~ Each Executive officer and county officer shall file ~~his or her~~ the
8 officer’s disclosure on or before January 15 of each year or, if ~~he or she~~ the
9 officer is appointed after January 15, within 10 days after that appointment.

10 (2) ~~An officer who filed this disclosure form as a candidate in~~
11 ~~accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure~~
12 ~~information has not changed since that filing may update that filing to indicate~~
13 ~~that there has been no change.~~ [Repealed.]

14 (e) [Repealed.]

15 * * * Delinquent Disclosures for Candidates for State Office, County Office,

16 State Senator, and State Representative * * *

17 Sec. 6. 17 V.S.A. § 2415 is added to read:

18 § 2415. FAILURE TO FILE; PENALTIES

19 (a) If any disclosure required of a candidate for State office, county office,
20 State Senator, or State Representative by section 2414 of this title is not filed in
21 the time and manner set forth in sections 2356, 2361, and 2402 of this title, the

1 candidate for State office, county office, State Senator, or State Representative
2 shall be addressed as follows:

3 (1) The State Ethics Commission, after notification by the Office of the
4 Secretary of State of the names of delinquent filers, shall issue a notice of
5 delinquency to the candidate for State office, county office, State Senator, or
6 State Representative for any disclosure required of a candidate for State office,
7 county office, State Senator, or State Representative by section 2414 of this
8 title that is not filed in the time and manner set forth in sections 2356, 2361,
9 and 2402 of this title.

10 (2) Following notice of delinquency sent by the State Ethics
11 Commission to the candidate for State office, county office, State Senator, or
12 State Representative, the candidate shall have five working days from the date
13 of the issuance of the notice to cure the delinquency.

14 (3) Beginning six working days from the date of notice, the delinquent
15 candidate for State office, county office, State Senator, or State Representative
16 shall pay a \$10.00 penalty for each day thereafter that the disclosure remains
17 delinquent; provided, however, that in no event shall the amount of any penalty
18 imposed under this subdivision exceed \$1,000.00.

19 (4) The State Ethics Commission may reduce or waive any penalty
20 imposed under this section if the candidate for State office, county office, State
21 Senator, or State Representative demonstrates good cause, as determined by

1 the State Ethics Commission and in the sole discretion of the State Ethics
2 Commission.

3 (b) The Commission shall send a notice of delinquency to the e-mail
4 address provided by the candidate for State office, county office, State Senator,
5 or State Representative in the candidate’s consent of candidate form.

6 (c) The State Ethics Commission may avail itself of remedies available
7 under the Vermont Setoff Debt Collection Act, as set forth in 32 V.S.A.
8 chapter 151, subchapter 12, to collect any unpaid penalty.

9 (d)(1) A candidate for State office, county office, State Senator, or State
10 Representative who files a disclosure with intent to defraud, falsify, conceal, or
11 cover up by any trick, scheme, or device a material fact, or, with intent to
12 defraud, make any false, fictitious, or fraudulent claim or representation as to a
13 material fact, or, with intent to defraud, make or use any writing or document
14 knowing the same to contain any false, fictitious, or fraudulent claim or entry
15 as to a material fact shall be considered to have made a false claim for the
16 purposes of 13 V.S.A. § 3016.

17 (2) Pursuant to 3 V.S.A. § 1223 and section 2904a of this title,
18 complaints regarding any candidate for State office, county office, State
19 Senator, or State Representative who fails to properly file a disclosure required
20 under this subchapter may be filed with the State Ethics Commission. The
21 Executive Director of the State Ethics Commission shall refer complaints to

1 the Attorney General or to the State’s Attorney of jurisdiction for investigation,
2 as appropriate.

3 * * * Expansion of State Ethics Commission’s Powers * * *

4 Sec. 7. 3 V.S.A. § 1221(a) is amended to read:

5 (a) Creation. There is created within the Executive Branch an independent
6 commission named the State Ethics Commission to accept, review, investigate;
7 hold hearings, issue warnings and reprimands; and recommended actions,
8 make referrals regarding, and track complaints of alleged violations of
9 governmental conduct regulated by law, of the Department of Human
10 Resources Personnel Policy and Procedure Manual, of the State Code of
11 Ethics, and of the State’s campaign finance law set forth in 17 V.S.A. chapter
12 61; to provide ethics training; and to issue guidance and advisory opinions
13 regarding ethical conduct.

14 Sec. 8. 3 V.S.A. § 1222 is redesignated to read:

15 § 1222. COMMISSION MEMBER ~~DUTIES AND~~ PROHIBITED

16 CONDUCT

17 Sec. 9. 3 V.S.A. § 1223 is amended to read:

18 § 1223. PROCEDURE FOR ~~HANDLING~~ ACCEPTING AND REFERRING

19 COMPLAINTS

20 * * *

1 (b) Preliminary review by Executive Director. The Executive Director
2 shall conduct a preliminary review of complaints made to the Commission in
3 order to take action as set forth in this subsection and section 1223a of this
4 title, which shall include referring complaints to all relevant entities, including
5 the Commission itself.

6 * * *

7 (c) Confidentiality. Complaints and related documents in the custody of
8 the Commission shall be exempt from public inspection and copying under the
9 Public Records Act and kept confidential, except as provided in section
10 1231 of this title.

11 (d) Consultation on unethical conduct. If the Executive Director refers a
12 complaint under subsection (b) of this section, the Executive Director shall
13 signify any likely unethical conduct described in the complaint. Any entity
14 receiving a referred complaint shall consult with the Commission regarding the
15 application of the State Code of Ethics to facts presented in the complaint.

16 Sec. 10. 3 V.S.A. § 1227 is added to read:

17 § 1227. INVESTIGATIONS

18 (a) Power to investigate. The Commission, through its Executive Director,
19 may investigate public servants for alleged unethical conduct. The
20 Commission may investigate either without receiving a complaint or after

1 being referred a complaint to the Commission pursuant to section 1223 of this
2 title.

3 (b) Initiation of investigation by Commission vote. The Executive Director
4 shall only initiate an investigation if a majority of the members of the
5 Commission present affirmatively vote to proceed with the investigation of
6 unethical conduct.

7 (c) Statute of limitations. The Commission shall only initiate an
8 investigation relating to unethical conduct that last occurred within the prior
9 two years.

10 (d) Outside legal counsel and investigators. The Executive Director may
11 appoint legal counsel, who shall be an attorney admitted to practice in this
12 State, and investigators to assist with investigations, hearings, and issuance of
13 warnings, reprimands, and recommended actions.

14 (e) Notice. The Executive Director shall notify the complainant and public
15 servant, in writing, of any complaint being investigated.

16 (f) Complainant participation. A complainant shall have the right to be
17 heard in an investigation resulting from the complaint.

18 (g) Timeline of investigation. An investigation shall conclude within six
19 months of either the date of the complaint received or, in the event no
20 complaint was received, the date of the investigation's initiation by the
21 Executive Director.

1 (h) Burden of proof. For a hearing to be warranted subsequent to an
2 investigation, the Executive Director shall find that there is a reasonable basis
3 to believe that the public servant’s conduct constitutes an unethical violation.

4 (i) Determination after investigation.

5 (1) Upon investigating the alleged unethical conduct, if the Executive
6 Director determines that an evidentiary hearing is warranted, the Executive
7 Director shall notify the Commission. If a majority of the members of the
8 Commission present affirmatively vote in concurrence with the Executive
9 Director’s determination that an evidentiary hearing is warranted, the
10 Executive Director shall prepare an investigation report specifying the public
11 servant’s alleged unethical conduct, a copy of which shall be served upon the
12 public servant and any complainant, together with the notice of hearing set
13 forth in section 1228 of this title.

14 (2) Upon investigating the alleged unethical conduct, if the Executive
15 Director determines that an evidentiary hearing is not warranted, the Executive
16 Director shall notify the Commission, the public servant, and any complainant,
17 in writing, of the result of the investigation and the termination of proceedings.

18 Sec. 11. 3 V.S.A. § 1228 is added to read:

19 § 1228. HEARINGS BEFORE THE COMMISSION

1 (a) Power to hold hearings. The Commission may meet and hold hearings
2 for the purpose of gathering evidence and testimony if found warranted
3 pursuant to section 1227 of this title and to make determinations.

4 (b) All Commission hearings shall be considered meetings of the
5 Commission as described in subsection 1221(e) of this title, and shall be
6 conducted in accordance with 1 V.S.A. § 310 et seq.

7 (c) Time of hearing. The Chair of the Commission shall set a time for the
8 hearing as soon as convenient following the Director’s determination that an
9 evidentiary hearing is warranted, subject to the discovery needs of the public
10 servant and any complainant as established in any prehearing or discovery
11 conference or in any orders regulating discovery and depositions, or both, but
12 not earlier than 30 days after service of the charge upon the public servant.
13 The public servant or a complainant may file motions to extend the time of the
14 hearing for good cause, which may be granted by the Chair.

15 (d) Notice of hearing. The Chair shall give the public servant and any
16 complainant reasonable notice of a hearing, which shall include:

17 (1) A statement of the time, place, and nature of the hearing.

18 (2) A statement of the legal authority and jurisdiction under which the
19 hearing is to be held.

20 (3) A reference to the particular sections of the statutes and rules
21 involved.

1 (4) A short and plain statement of the matters at issue. If the
2 Commission is unable to state the matters in detail at the time the notice is
3 served, the initial notice may be limited to a statement of the issues involved.
4 Thereafter, upon application by either the public servant or any complainant, a
5 more definite and detailed statement shall be furnished.

6 (5) A reference and copy of any rules adopted by the Commission
7 regarding the hearing’s procedures, rules of evidence, and other aspects of the
8 hearing.

9 (e) Rights of public servants and complainants. Opportunity shall be given
10 to the public servant and any complainant to be heard at the hearing, present
11 evidence, respond to evidence, and argue on all issues related to the alleged
12 unethical misconduct.

13 (f) Executive session. In addition to the provisions of 1 V.S.A. § 313(a),
14 the Commission may enter executive session if the Commission deems it
15 appropriate in order to protect the confidentiality of an individual or any other
16 protected information pertaining to any identifiable person that is otherwise
17 confidential under State or federal law.

18 Sec. 12. 3 V.S.A. § 1229 is added to read:

19 § 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS;

20 AGREEMENTS

1 (a) Power to issue warnings, reprimands, and recommended actions. The
2 Commission may issue warnings, reprimands, and recommended actions, not
3 inconsistent with the Vermont Constitution and laws of the State, including
4 facilitated mediation, additional training and education, referrals to counseling
5 and wellness support, or other remedial actions.

6 (b) Factors in determination.

7 (1) Circumstances of unethical conduct. In this determining, the
8 Commission shall consider the degree of unethical conduct, the timeline over
9 which the unethical conduct occurred and whether the conduct was repeated,
10 and the privacy, rights, and responsibilities of the parties.

11 (2) Determination based on evidence. The Commission shall render its
12 determination on the allegation on the basis of the evidence in the record
13 before it, regardless of whether the Commission makes its determination on the
14 investigation report of the Executive Director pursuant to section 1227 of this
15 title alone, on evidence and testimony presented in the hearing pursuant to
16 section 1228 of this title, or on its own findings.

17 (3) Burden of proof. The Commission shall only issue a warning,
18 reprimand, or recommended action if it finds that, by a preponderance of the
19 evidence, the public servant committed unethical conduct.

20 (c) Determination after hearing.

1 (1) If a majority of the members of the Commission present and voting
2 find that the public servant committed unethical conduct as specified in the
3 investigation report the Executive Director pursuant to section 1227 of this title
4 alone, the Commission shall then, in writing or stated in the record, issue a
5 warning, reprimand, or recommended action.

6 (2) If the Commission does not find that the public servant committed
7 unethical conduct, the Commission shall issue a statement that the allegations
8 were not proved.

9 (3) When a determination or order is approved for issue by a board or
10 commission, the decision or order may be signed by the chair on behalf of the
11 issuing board or commission.

12 (d) Timeline for determination. The Commission shall make its
13 determination within 30 days of concluding the Commission’s last hearing
14 under this section. Parties shall be notified forthwith either personally or by
15 mail of the Committee’s determination and of any warning, reprimand, or
16 recommended action.

17 (e) Referral of unethical conduct. Notwithstanding subsection 1223(c) of
18 this title, the Commission shall notify the Attorney General or the State’s
19 Attorney of jurisdiction of any alleged violations of governmental conduct
20 regulated by law or the relevant federal agency of any alleged violations of
21 federal law, if discovered in the course of the Commission’s investigations.

1 (f) Power to enter into resolution agreements.

2 (1) Notwithstanding any provisions of this chapter to the contrary, the
3 Commission, may by a majority vote of its members present, enter into a
4 resolution agreement with the public servant.

5 (2) A resolution agreement shall:

6 (A) include an agreed course of remedial action to be taken by the
7 public servant;

8 (B) be in writing;

9 (C) executed by both the public servant and Executive Director; and

10 (D) be a public record subject to the public inspection and copying
11 under the Public Records Act.

12 (3) A resolution agreement may be entered into at any point in time
13 before or during Commission proceedings. Any procedural deadlines
14 described in this chapter or rules adopted pursuant to this chapter shall be
15 paused at the time of execution of the resolution agreement. The Executive
16 Director shall verify compliance with the resolution agreement within three
17 months following execution of the agreement, and if the Executive Director is
18 not satisfied that compliance has been achieved, the Commission may resume
19 its initial proceedings.

1 Sec. 13. 3 V.S.A. § 1230 is added to read:

2 § 1230. PROCEDURE; RULEMAKING

3 (a) Procedure. Unless otherwise controlled by statute or rules adopted by
4 the Commission, the Vermont Rules of Civil Procedure and the Vermont Rules
5 of Evidence shall apply in the Commission’s investigations and hearings.

6 (b) Rulemaking. The Commission shall adopt rules pursuant to 3 V.S.A.
7 chapter 25 regarding procedural and evidentiary aspects of the Commission’s
8 investigations and hearings.

9 (c) Waiver of rules. To prevent unnecessary hardship, delay, or injustice,
10 or for other good cause, a vote of two-thirds of the Commission’s members
11 present and voting may waive the application of a rule upon such conditions as
12 the Chair may require, unless precluded by rule or by statute.

13 (d) Subpoenas and oaths. The Commission, the Executive Director, and
14 the Commission’s legal counsel and investigators shall have the power to issue
15 subpoenas and administer oaths in connection with any investigation or
16 hearing, including compelling the provision of materials or the attendance of
17 witnesses at any investigation or hearing. The Commission, the Executive
18 Director, and the Commission’s legal counsel and investigators may take or
19 cause depositions to be taken as needed in any investigation or hearing.

20 Sec. 14. 3 V.S.A. § 1231 is added to read:

21 § 1231. RECORD; CONFIDENTIALITY

1 (a) Intent. It is the intent of this section both to protect the reputation of
2 public servants from public disclosure of frivolous complaints against them
3 and to fulfill the public’s right to know any unethical conduct committed by a
4 public servant that results in issued warnings, reprimands, or recommended
5 actions.

6 (b) Public Records. Public records relating to the Commission’s handling
7 of complaints, alleged unethical conduct, investigations, and proceedings are
8 exempt from public inspection and copying under the Public Records Act and
9 shall be kept confidential, except those public records required or permitted to
10 be released under this chapter. Records subject the public inspection and
11 copying under the Public Records Act shall include:

12 (1) investigation reports relating to alleged unethical conduct
13 determined to warrant a hearing warranted pursuant to section 1227 of this
14 title, but not any undisclosed records gathered or created in the course of an
15 investigation;

16 (2) at the request of the public servant or the public servant’s designated
17 representative, investigation reports relating to alleged unethical conduct
18 determined to not warrant a hearing warranted pursuant to section 1227 of this
19 title, but not any undisclosed records gathered or created in the course of an
20 investigation;

1 (3) evidence produced in the open and public portions of Commission

2 hearings;

3 (4) any warnings, reprimands, and recommendations issued by the

4 Commission;

5 (5) any executed resolution agreements; and

6 (6) any records, as determined by the Commission, that support a

7 warning, reprimand, recommendation, or executed resolution agreement.

8 (c) Court orders. Nothing in this section shall prohibit the disclosure of any
9 information regarding alleged unethical conduct pursuant to an order from a
10 court of competent jurisdiction, or to a State or federal law enforcement agency
11 in the course of its investigation, provided the agency agrees to maintain the
12 confidentiality of the information as provided in subsection (b) of this section.

13 * * * State Ethics Commission Membership * * *

14 Sec. 15. 3 V.S.A. § 1221(b) is amended to read:

15 (b) Membership.

16 (1) The Commission shall be composed of the following ~~five~~ six
17 members:

18 (A) one member, appointed by the Chief Justice of the Supreme
19 Court;

20 (B) one member, appointed by the League of Women Voters of
21 Vermont, who shall be a member of the League;

1 (C) one member, appointed by the Board of Directors of the Vermont
2 Society of Certified Public Accountants, who shall be a member of the Society;

3 (D) one member, appointed by the Board of Managers of the
4 Vermont Bar Association, who shall be a member of the Association; ~~and~~

5 (E) one member, appointed by the Board of Directors of the SHRM
6 (Society for Human Resource Management) Vermont State Council, who shall
7 be a member of the Council; and

8 (F) one member, appointed by the Vermont League of Cities and
9 Towns.

10 * * *

11 * * * State Ethics Commission Staffing * * *

12 Sec. 16. 3 V.S.A. § 1221(c) is amended to read:

13 (c) Executive Director.

14 (1) The Commission shall be staffed by an Executive Director who shall
15 be appointed by and serve at the pleasure of the Commission ~~and who shall be~~
16 ~~a part-time exempt State employee.~~

17 (2) The Executive Director shall maintain the records of the
18 Commission and shall provide administrative support as requested by the
19 Commission, in addition to any other duties required by this chapter.

20 Sec. 17. STATE ETHICS COMMISSION; POSITIONS; APPROPRIATION

1 (a) The position of one new, permanent, full-time, exempt Legal Counsel is
2 created in the State Ethics Commission.

3 (b) The Executive Director of the State Ethics Commission shall be
4 reclassified as a full-time, exempt State employee.

5 (c) The position of Administrative Assistant in the State Ethics
6 Commission shall be reclassified as a full-time, exempt State employee.

7 (d) The sum of \$150,000.00 is appropriated to the State Ethics Commission
8 from the General Fund in fiscal year 2025 for the creation of the position of
9 Legal Counsel in the State Ethics Commission.

10 (e) The sum of \$150,000.00 is appropriated to the State Ethics Commission
11 from the General Fund in fiscal year 2025 for the reclassification of the
12 position of Executive Director in the State Ethics Commission.

13 (f) The sum of \$57,000.00 is appropriated to the State Ethics Commission
14 from the General Fund in fiscal year 2025 for the reclassification of the
15 position of Administrative Assistant in the State Ethics Commission.

16 * * * Citation Correction * * *

17 Sec. 18. 3 V.S.A. § 1221(e) is amended to read:

18 (e) Meetings. Meetings of the Commission:

19 (1) shall be held at least quarterly for the purpose of the Executive
20 Director updating the Commission on ~~his or her~~ the Executive Director's work;

1 (2) may be called by the Chair and shall be called upon the request of
2 any other two Commission members; and

3 (3) shall be conducted in accordance with ~~4 V.S.A. § 172~~ 1 V.S.A.
4 § 310 et seq.

5 * * * Ethics Data Collection * * *

6 Sec. 19. 3 V.S.A. § 1226 is amended to read:

7 § 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

8 (a) Annually, on or before November 15, the following entities shall report
9 to the State Ethics Commission aggregate data on ethics complaints not
10 submitted to the Commission, with the complaints separated by topic, and the
11 disposition of those complaints, including any prosecution, enforcement action,
12 or dismissal:

13 (1) the office of the Attorney General and State’s Attorneys’ offices, of
14 alleged violations of governmental conduct regulated by law and associated
15 crimes and including campaign finance requirements;

16 (2) the Department of Human Resources, of complaints alleging conduct
17 that violates the ethical provisions of the Department of Human Resources
18 Personnel Policy and Procedure Manual or of the State Code of Ethics;

19 (3) the Senate Ethics Panel, of alleged unethical conduct committed by
20 State Senators;

1 Sec. 20. EFFECTIVE DATES

2 This act shall take effect on passage, except that Sec. 1 (amending
3 17 V.S.A. § 2414) shall take effect on January 1, 2026 and Secs. 7 (amending
4 3 V.S.A. § 1221(a)), 8 (amending 3 V.S.A. § 1222), 9 (amending 3 V.S.A. §
5 1223), 10 (adding 3 V.S.A. § 1227), 11 (adding 3 V.S.A. § 1228), 12 (adding 3
6 V.S.A. § 1229), and 14 (adding 3 V.S.A. § 1231) shall take effect on January
7 1, 2025.