

1 Introduced by the Committee on Government Operations and Military Affairs

2 Date:

3 Subject: Municipal and county government

4 Statement of purpose of bill as introduced: This bill proposes to create a
5 uniform Municipal Code of Ethics. This bill would also repeal redundant
6 municipal ethics law and require municipal officers currently in office to
7 complete initial ethics training.

8 An act relating to creating a uniform Municipal Code of Ethics

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

10 * * * Repeal of Redundant Ethics Law * * *

11 Sec. 1. REPEAL

12 24 V.S.A. § 1984 (conflict of interest prohibition) is repealed.

13 Sec. 2. 24 V.S.A. § 2291 is amended to read:

14 § 2291. ENUMERATION OF POWERS

15 For the purpose of promoting the public health, safety, welfare, and
16 convenience, a town, city, or incorporated village shall have the following
17 powers:

18 * * *

19 (20) ~~To establish a conflict of interest policy to apply to all elected and~~
20 ~~appointed officials of the town, city, or incorporated village or ethical conduct~~

1 ~~policies to apply to all elected and appointed officials and employees of the~~
2 ~~municipality, or both. [Repealed.]~~

3 * * *

4 * * * Creation of Municipal Code of Ethics * * *

5 Sec. 3. 24 V.S.A. chapter 60 is added to read:

6 CHAPTER 60. MUNICIPAL CODE OF ETHICS

7 § 1991. DEFINITIONS

8 As used in this chapter:

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

11 (2) “Commission” means the State Ethics Commission established
12 under 3 V.S.A. chapter 31, subchapter 3.

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

16 (4) “Conflict of interest” means a direct or indirect interest of a
17 municipal officer or such an interest, known to the officer, of a member of the
18 officer’s immediate family or household, or of a business associate, in the
19 outcome of a particular matter pending before the officer or the officer’s public
20 body, or that is in conflict with the proper discharge of the officer’s duties.

1 “Conflict of interest” does not include any interest that is not greater than that
2 of other individuals generally affected by the outcome of a matter.

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

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 (6) “Immediate family” means an individual’s spouse, domestic partner,
15 or civil union partner; child or foster child; sibling; parent; or such relations by
16 marriage or by civil union or domestic partnership; or an individual claimed as
17 a dependent for federal income tax purposes.

18 (7) “Legislative body” means the selectboard in the case of a town, the
19 mayor, alderpersons, and city council members in the case of a city, the
20 president and trustees in the case of an incorporated village, the members of

1 the prudential committee in the case of a fire district, and the supervisor in the
2 case of an unorganized town or gore.

3 (8) “Municipal employee” means an individual performing services for
4 or holding an office, position, employment, or membership in any
5 municipality, whether by election, appointment, contract of hire, or
6 engagement, whether serving with or without compensation, on a full-time,
7 regular, part-time, temporary, intermittent, permanent, or consultant basis.

8 (9)(A) “Municipal officer” or “officer” means:

9 (i) any member of a legislative body of a municipality;

10 (ii) any member of a quasi-judicial body of a municipality; or

11 (iii) any individual who, as part of their official municipal duties,
12 exercises authority and discretion in performing any governmental action or
13 function, other than in a solely clerical, secretarial, or ministerial capacity.

14 (B) “Municipal officer” or “officer” do not mean:

15 (i) any member of an advisory body of a municipality; or

16 (ii) any individual who, as part of their official municipal duties,
17 performs governmental actions or functions in a solely clerical, secretarial, or
18 ministerial capacity.

19 (10) “Municipality” has the same meaning as in 1 V.S.A. § 126 but does
20 not include town or incorporated school districts.

21 (11) “Retaliate” or “retaliation” means:

1 (A) the discharge, suspension, reprimand, demotion, denial of
2 promotion, imposition of a performance warning period, involuntary transfer
3 or reassignment, or adverse employment action; or

4 (B) the use of official authority or position to deny, deprive, or
5 interfere with any right or privilege otherwise available to an individual under
6 the law.

7 § 1992. CONFLICTS OF INTEREST

8 (a) Duty to avoid conflicts of interest. In the municipal officer’s official
9 capacity, the officer shall avoid any conflict of interest or the appearance of a
10 conflict of interest. The appearance of a conflict shall be determined from the
11 perspective of a reasonable individual with knowledge of the relevant facts.

12 (b) Recusal.

13 (1) If a municipal officer is confronted with a conflict of interest or the
14 appearance of one, the officer shall immediately recuse themselves from the
15 matter, except as otherwise provided in subdivisions (2) and (5) of this
16 subsection, and not take further action on the matter or participate in any way
17 or act to influence a decision regarding the matter. After recusal, an officer
18 may still take action on the matter if the officer is a party, as defined by section
19 1201 of this title, in a contested hearing or litigation and acts only in their
20 capacity as a member of the public. The officer shall make a public statement
21 explaining the officer’s recusal.

1 (2)(A) Notwithstanding subdivision (1) of this subsection, an officer
2 may continue to act in a matter involving the officer’s conflict of interest or
3 appearance of a conflict of interest if the officer first:

4 (i) determines there is good cause for the officer to proceed,

5 meaning:

6 (I) the conflict is amorphous, intangible, or otherwise

7 speculative;

8 (II) the officer cannot legally or practically delegate the matter;

9 or

10 (III) the action to be taken by the officer is purely ministerial

11 and does not involve substantive decision-making; and

12 (ii) the officer submits a written nonrecusal statement to the

13 legislative body of the municipality regarding the nature of the conflict that

14 shall:

15 (I) include a description of the matter requiring action;

16 (II) include a description of the nature of the potential conflict

17 or actual conflict of interest;

18 (III) include an explanation of why good cause exists so that

19 the municipal officer can take action in the matter fairly, objectively, and in the

20 public interest;

1 (IV) be written in plain language and with sufficient detail so
2 that the matter may be understood by the public; and

3 (V) be signed by the municipal officer.

4 (B) Notwithstanding subsection (A) of this subdivision (2), a
5 municipal officer that would benefit from any contract entered into by the
6 municipality and the officer, the officer’s immediate family, or an associated
7 business of the officer or the officer’s immediate family, and whose official
8 duties include execution of that contract, shall recuse themselves from any
9 decision-making process involved in the awarding of that contract.

10 (3) If an officer’s conflict of interest or the appearance of a conflict of
11 interest concerns an official act or actions that take place outside a public
12 meeting, the officer’s nonrecusal statement shall be filed with the clerk of the
13 municipality and be available to the public for the duration of the officer’s
14 service plus a minimum of five years.

15 (4) If an officer’s conflict of interest is related to an official municipal
16 act or actions considered at a public meeting, the officer’s nonrecusal
17 statement shall be filed as part of the minutes of the meeting of the public body
18 in which the municipal officer serves.

19 (5) If, at a meeting of a public body, an officer becomes aware of a
20 conflict of interest or the appearance of a conflict of interest for the officer and
21 the officer determines there is good cause to proceed, the officer may proceed

1 with the matter after announcing and fully stating the conflict on the record.

2 The officer shall submit a written nonrecusal statement pursuant to subdivision
3 (2) of this subsection within five business days after the meeting. The meeting
4 minutes shall be subsequently amended to reflect the submitted written
5 nonrecusal statement.

6 (c) Authority to inquire about conflicts of interest. If a municipal officer is
7 a member of a public body, the other members of that body shall have the
8 authority to inquire of the officer about any possible conflict of interest or any
9 appearance of a conflict of interest and to recommend that the member recuse
10 themselves from the matter.

11 (d) Confidential information. Nothing in this section shall require a
12 municipal officer to disclose confidential information or information that is
13 otherwise privileged under law.

14 § 1993. PROHIBITED CONDUCT

15 (a) Directing unethical conduct. A municipal officer shall not direct any
16 individual to act in a manner that would:

17 (1) benefit a municipal officer in a manner related to the officer's
18 conflict of interest;

19 (2) create a conflict of interest or the appearance of a conflict of interest
20 for the officer or for the directed individual; or

1 (3) otherwise violate the Municipal Code of Ethics as described in this
2 chapter.

3 (b) Preferential treatment. A municipal officer shall act impartially and not
4 unduly favor or prejudice any person in the course of conducting official
5 business. An officer shall not give, or represent an ability to give, undue
6 preference or special treatment to any person because of the person’s wealth,
7 position, or status or because of a person’s personal relationship with the
8 officer, unless otherwise permitted or required by State or Federal law.

9 (c) Misuse of position. A municipal officer shall not use the officer’s
10 official position for the personal or financial gain of the officer, a member of
11 the officer’s immediate family or household, or the officer’s business
12 associate.

13 (d) Misuse of information. A municipal officer shall not use nonpublic or
14 confidential information acquired during the course of official business for
15 personal or financial gain of the officer or for the personal or financial gain of
16 a member of the officer’s immediate family or household or of an officer’s
17 business associate.

18 (e) Misuse of government resources. A municipal officer shall not make
19 use of a town’s, city’s, or village’s materials, funds, property, personnel,
20 facilities, or equipment, or permit another person to do so, for any purpose
21 other than for official business unless the use is expressly permitted or required

1 by State law; ordinance; or a written agency, departmental, or institutional
2 policy or rule. An officer shall not engage in or direct another person to
3 engage in work other than the performance of official duties during working
4 hours, except as permitted or required by law or a written agency,
5 departmental, or institutional policy or rule.

6 (f) Gifts.

7 (1) No person shall offer or give to a municipal officer or candidate, or
8 the officer's or candidate's immediate family, anything of value, including a
9 gift, loan, political contribution, reward, or promise of future employment
10 based on any understanding that the vote, official action, or judgment of the
11 municipal officer or candidate would be, or had been, influenced thereby.

12 (2) A municipal officer or candidate shall not solicit or accept anything
13 of value, including a gift, loan, political contribution, reward, or promise of
14 future employment based on any understanding that the vote, official action, or
15 judgment of the municipal officer or candidate would be or had been
16 influenced thereby.

17 (3) Nothing in subdivision (1) or (2) of this subsection shall be
18 construed to apply to any campaign contribution that is lawfully made to a
19 candidate or candidate's committee pursuant to 17 V.S.A. chapter 61 or to
20 permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

1 (g) Unauthorized commitments. A municipal officer shall not make
2 unauthorized commitments or promises of any kind purporting to bind the
3 municipality unless otherwise permitted by law.

4 (h) Benefit from contracts. A municipal officer shall not benefit from any
5 contract entered into by the municipality and the officer, the officer’s
6 immediate family, or an associated business of the officer or the officer’s
7 immediate family, unless:

8 (1) the benefit is not greater than that of other individuals generally
9 affected by the contract;

10 (2) the contract is a contract for employment with the municipality;

11 (3) the contract was awarded through an open and public process of
12 competitive bidding; or

13 (4) the total value of the contract is less than \$2,000.00.

14 § 1994. GUIDANCE AND ADVISORY OPINIONS

15 (a) Guidance.

16 (1) The Executive Director of the State Ethics Commission may provide
17 guidance only to a municipal officer and only with respect to the officer’s
18 duties regarding any provision of this chapter or regarding any other issue
19 related to governmental ethics.

20 (2) The Executive Director may consult with members of the State
21 Ethics Commission and the municipality in preparing this guidance.

1 (3) Guidance provided under this subsection shall be exempt from
2 public inspection and copying under the Public Records Act and shall be kept
3 confidential unless the receiving entity has publicly disclosed it.

4 (b) Advisory opinions.

5 (1) On the written request of any municipal officer, the Executive
6 Director may issue an advisory opinion to that officer that provides general
7 advice or interpretation with respect to the officer’s duties regarding any
8 provision of this chapter or regarding any other issue related to governmental
9 ethics.

10 (2) The Executive Director may consult with members of the
11 Commission and the municipality in preparing these advisory opinions.

12 (3) The Executive Director may seek comment from persons interested
13 in the subject of an advisory opinion under consideration.

14 (4) The Executive Director shall post on the Commission’s website any
15 advisory opinions that the Executive Director issues. Personally identifiable
16 information is exempt from public inspection and copying under the Public
17 Records Act and shall be kept confidential unless the municipal officer who is
18 the subject of the advisory opinion authorizes the publication of the personally
19 identifiable information.

1 § 1995. ETHICS TRAINING

2 (a) Initial ethics training. Within 120 days after a municipal officer is
3 elected or appointed, the officer shall complete ethics training, as approved by
4 the State Ethics Commission. The officer, the officer’s employer, or another
5 individual designated by the municipality shall document the officer’s
6 completed ethics training.

7 (b) Continuing ethics training. Upon completing initial ethics training, a
8 municipal officer shall complete additional ethics training, as determined by
9 the State Ethics Commission, every three years.

10 (c) Approval of training. Ethics trainings shall at minimum reflect the
11 contents of the Municipal Ethics Code and be approved by the State Ethics
12 Commission. Approval of ethics trainings shall not be unreasonably withheld.
13 Ethics trainings shall be conducted by the State Ethics Commission, the
14 municipality, or a third party approved in advance by the State Ethics
15 Commission. The State Ethics Commission may approve trainings that are in
16 person, online, and synchronous or asynchronous. The State Ethics
17 Commission shall require ethics training to be designed in a manner as to
18 achieve improved competency in the subject matter rather than rely on fixed
19 hours of training as a measure of completed training. The training shall
20 include information approved by the Secretary of State regarding the State’s
21 Open Meeting Law and the State’s Public Records Act.

1 (d) State Ethics Commission liaisons. Each municipality, acting through its
2 legislative body, shall designate an employee as its liaison to the State Ethics
3 Commission. If a municipality does not have any employees, the legislative
4 body shall designate one of its members as its liaison to the State Ethics
5 Commission. The municipality shall notify the Commission in writing of any
6 newly designated liaison within 30 days after such change. The Commission
7 shall disseminate information to the designated liaisons and conduct
8 educational seminars for designated liaisons on a regular basis on a schedule to
9 be determined by the Commission, in consultation with the municipality. The
10 Commission shall report any ethics training conducted by the Commission and
11 completed by an officer to the liaison of that officer’s municipality.

12 § 1996. ENFORCEMENT AND REMEDIES

13 Each municipality shall:

14 (1) ensure that the Municipal Code of Ethics is posted on the town’s,
15 city’s, or village’s website or, if no such website exists, ensure that a copy of
16 the Municipal Code of Ethics is received by all municipal officers and is made
17 available to the public upon request;

18 (2) maintain a record of municipal officers who have received ethics
19 training pursuant to section 1995 of this title;

20 (3) designate a municipal officer or body to receive complaints alleging
21 violations of the Municipal Code of Ethics;

1 (4) where appropriate or necessary, investigate complaints that allege
2 violations of the Municipal Code of Ethics;

3 (5) maintain a record of received complaints and the disposition of each
4 complaint for the duration of the municipal officer’s service plus a minimum
5 of five years; and

6 (6) upon request of the State Ethics Commission, promptly provide the
7 State Ethics Commission with a summary of complaints received by the
8 municipality and the outcome of each complaint.

9 § 1997. WHISTLEBLOWER PROTECTION

10 (a) Protected disclosure. Consistent with 3 V.S.A. §§ 971–978, any
11 municipal officer, municipal employee, or any other individual shall be free to
12 disclose, in good faith and with candor, any fraud, abuse of authority,
13 violations of law, or violations of this or other applicable codes regarding
14 ethical conduct, to any relevant public body, including the municipality’s
15 legislative body and the State Ethics Commission, without fear of reprisal,
16 intimidation, or retaliation.

17 (b) Antiwhistleblower policies. A municipal officer, legislative body, or
18 public body shall not make, adopt, or enforce any policy or practice preventing
19 the disclosure of fraud, abuse of authority, violations of law, or violations of
20 this or other applicable codes regarding ethical conduct.

21 (c) Civil action.

1 (1) To avail themselves of any remedies under this section, an injured
2 individual must have:

3 (A) at the time of discovering the violation, then disclosed in writing
4 to the relevant public body of the violation; and

5 (B) in that disclosure, clearly alleged the conduct constituting fraud,
6 abuse of authority, or violations of law, or violations of this or other applicable
7 codes regarding ethical conduct.

8 (2) An individual who has been the object of retaliation in violation of
9 this section may bring a civil action against the municipality and the municipal
10 officer in the civil division of the Superior Court for relief within one year after
11 discovering the retaliation, or within three years after the retaliation, whichever
12 is earlier.

13 (3) An individual who brings a claim in the civil division of the Superior
14 Court may be awarded the following remedies:

15 (A) appropriate injunction relief;

16 (B) reinstatement of the employee to the same position, seniority, and
17 work location held prior to the retaliatory action;

18 (C) back pay, lost wages, benefits, and other remuneration;

19 (D) other compensatory damages;

20 (E) reasonable costs and attorney’s fees; and

21 (F) punitive damages not more than \$5,000.00.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on January 1, 2025.