

Dear Senator

Pursuant to my testimony of January 11, I would like to further address the question of the independence of the Ethics Commission as proposed in S.8.

I did a poor job of articulating just why it is clear that the Ethics Commission as proposed in the bill is not independent.

In that testimony I suggested the Human Rights Commission as a model for an independent Ethics Commission. The HRC is independent because it is responsible for policy development, education, conciliation and enforcement. It also has an Executive Director, several Investigators and other staff.

In contrast, the Ethics Commission does not write the code of ethics – that is to be done by the Agency of Human Services (an agency that could be the subject of an ethics complaint); it has no enforcement authority; it does not have staff or legal tools to do an independent investigation - even its part-time staff is on loan from another agency. Under no stretch of the imagination can this be called an independent body.

The Commission is assigned education, but again, not given the resources to do an adequate job. Overall, this bill provides for a Commission that can act only as glorified file clerks.

In addition, it is the League's dearest wish to find a way to include the Legislature under a strong Ethics Commission, and that the code should be applied to municipalities as well.

From 1986 to 2009 Rhode Island had a strong code of ethics that included the state Legislature. In 2009 a court case ruled that legislators "are immune from the Code of Ethics for their 'core legislative acts,' including voting and speaking on bills. The Court said that the 'speech in debate clause' of the Rhode Island Constitution (Article VI, Section 5) trumps the more recent Ethics Amendment (Article III, Section 8) because the former was not amended to account for the latter. The Court made this ruling despite the fact that the Ethics Amendment reads, 'All elected an appointed officials and employees of state and local government, board, commissions and agencies shall be subject to the code of ethics.'" \*

For the next seven years, the LWVRI lobbied for reinstatement of General Assembly oversight, and vowed to continue the fight in 2016. However, the revelation of a rash of violations showed that self-policing is of questionable value: The House speaker was convicted of bribery, wire fraud, and filing a false tax return ; The Chair of the powerful House Finance Committee suddenly left the State House under federal investigation; Legislative grants and elected officials' incomplete financial disclosure reports began to be questioned by the public and press; and the vice-chair of House Finance Committee, accused of living outside of his district, was front page news.

The issue was brought to the people in 2016, with a referendum to restore Ethics Commission jurisdiction over the members of the General Assembly. It passed by more than 3:1 in favor.

It is easy to convince ourselves, because of our open and intimate State House and because in our small state we know our political leaders at every level by their first names, that Vermont must be pretty much immune to the kind of corruption described above. However, recent events have shown that Vermont can be home to political scandal, and a mini-epidemic of embezzlement cases on the local level shows the need for a truly independent body to oversee all our governmental bodies.

A friend used to say that when minimum standards are set, they quickly become the maximum. Our fear is that if this weak bill is passed, Vermont will say, “We now have an Ethics Commission,” and that will be that.

The League of Women Voters wants an effective Ethics Commission for Vermont. We cannot support S.8 as it stands.

On behalf of the League of Women Voters of Vermont

Catherine A. Rader

\*Rhode Island Common Cause *Voter*, April 2013, courtesy of LWVRI.