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H.634

Introduced by Representatives Gannon of Wilmington and Harrison of  
Chittenden

Referred to Committee on

Date:

Subject: Executive; State Ethics Commission; powers and duties

Statement of purpose of bill as introduced: This bill proposes to:

(1) amend the membership of the State Ethics Commission and the  
authority of the Commission as it relates to staffing, guidance, and advisory  
opinions;

(2) require the Commission to propose to the General Assembly a State  
Code of Ethics that could be enacted into law;

(3) extend the sunset of the Commission's funding source; and

(4) require Executive officials and Commission members to file  
disclosures annually, rather than biennially, and to certify the truth of those  
disclosures.

An act relating to the State Ethics Commission

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

2 Sec. 1. 3 V.S.A. chapter 31 is amended to read:

3 CHAPTER 31. GOVERNMENTAL ETHICS

4 \* \* \*

5 Subchapter 2. Disclosures

6 § 1211. EXECUTIVE OFFICERS; ~~BIENNIAL~~ ANNUAL DISCLOSURE

7 (a) ~~Biennially~~ Annually, each Executive officer shall file with the State  
8 Ethics Commission a disclosure form that contains the following information  
9 in regard to the previous calendar year:

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

14 (A) employment, including the employer or business name and  
15 address and, if self-employed, a description of the nature of the self-  
16 employment without needing to disclose any individual clients; and

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

18 (2) Any board, commission, or other entity that is regulated by law or  
19 that receives funding from the State on which the officer served and the  
20 officer’s position on that entity.

1           (3) Any company of which the officer or his or her spouse or domestic  
2 partner, or the officer together with his or her spouse or domestic partner,  
3 owned more than 10 percent.

4           (4) Any lease or contract with the State held or entered into by:

5                 (A) the officer or his or her spouse or domestic partner; or

6                 (B) a company of which the officer or his or her spouse or domestic  
7 partner, or the officer together with his or her spouse or domestic partner,  
8 owned more than 10 percent.

9           (b) In addition, if an Executive officer's spouse or domestic partner is a  
10 lobbyist, the officer shall disclose that fact and provide the name of his or her  
11 spouse or domestic partner and, if applicable, the name of his or her lobbying  
12 firm.

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

16           (2) Each Executive officer shall sign his or her disclosure form in order  
17 to certify it in accordance with this subsection.

18           (d)(1) An officer shall file his or her disclosure on or before January 15 of  
19 ~~the odd-numbered~~ each year or, if he or she is appointed after January 15,  
20 within 10 days after that appointment.

1           (2) An officer who filed this disclosure form as a candidate in  
2           accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure  
3           information has not changed since that filing may update that filing to indicate  
4           that there has been no change.

5           ~~(d)~~(e) As used in this section:

6           (1) “Domestic partner” means an individual with whom the Executive  
7           officer has an enduring domestic relationship of a spousal nature, as long as the  
8           officer and the domestic partner:

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

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

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

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

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

17           (2) “Lobbyist” and “lobbying firm” shall have the same meanings as in  
18           2 V.S.A. § 261.

1 § 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR;

2 ~~BIENNIAL~~ ANNUAL DISCLOSURE

3 (a) ~~Biennially~~ Annually, each member of the Commission and the  
4 Executive Director of the Commission shall file with the Executive Director a  
5 disclosure form that meets the requirements of and contains the information  
6 that Executive officers are required to disclose under section 1211 of this  
7 subchapter.

8 (b) A member and the Executive Director shall file their disclosures on or  
9 before January 15 of ~~the first~~ each year of ~~their appointments~~ or, if the member  
10 or Executive Director is appointed after January 15, within 10 days after that  
11 appointment, ~~and shall file subsequent disclosures biennially thereafter.~~

12 § 1213. DISCLOSURES; GENERALLY

13 (a) The Executive Director of the Commission shall prepare on behalf of  
14 the Commission any disclosure form required to be filed with it and the  
15 candidate disclosure form described in 17 V.S.A. § 2414, and shall make ~~those~~  
16 forms to be filed with the Commission available on the Commission's website.

17 (b) The Executive Director shall post on the Commission's website a copy  
18 of any disclosure form the Commission receives.



1 (E) one member appointed by the Board of Directors of the SHRM  
2 (Society of Human Resource Management) Vermont ~~Human Resource~~  
3 ~~Association~~ State Council, who shall be a member of the ~~Association~~ Council.

4 (2) The Commission shall elect the Chair of the Commission from  
5 among its membership.

6 (3) A member shall not:

7 (A) hold any office in the Legislative, Executive, or Judicial Branch  
8 of State government or otherwise be employed by the State;

9 (B) hold or enter into any lease or contract with the State, or have a  
10 controlling interest in a company that holds or enters into a lease or contract  
11 with the State;

12 (C) be a lobbyist;

13 (D) be a candidate for State ~~or~~, legislative, or elected judicial office;  
14 or

15 (E) hold any office in a State ~~or~~, legislative, or elected judicial office  
16 candidate's committee, a political committee, or a political party.

17 (4) A member may be removed for cause by the remaining members of  
18 the Commission in accordance with the Vermont Administrative Procedure  
19 Act.

20 (5)(A) A member shall serve a term of ~~three~~ five years and until a  
21 successor is appointed. A term shall begin on January 1 of the year of

1 appointment and run through December 31 of the last year of the term. Terms  
2 of members shall be staggered so that ~~not all~~ no two terms expire at the same  
3 time.

4 (B) A vacancy created before the expiration of a term shall be filled  
5 in the same manner as the original appointment for the unexpired portion of the  
6 term.

7 (C) A member shall not serve more than two consecutive terms. A  
8 member appointed to fill a vacancy created before the expiration of a term  
9 shall not be deemed to have served a term for the purpose of this  
10 subdivision (C).

11 (c) Executive Director.

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

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

18 (3) With the consent of the Commission, the Executive Director may  
19 employ persons necessary for the efficient administration of the Commission.

20 (d) Confidentiality. The Commission and the Executive Director shall  
21 maintain the confidentiality required by this chapter.

1 (e) Meetings. Meetings of the Commission:

2 (1) shall be held at least quarterly for the purpose of the Executive

3 Director updating the Commission on his or her work;

4 (2) may be called by the Chair and shall be called upon the request of

5 any other two Commission members; and

6 (3) shall be conducted in accordance with 1 V.S.A. § 172.

7 (f) Reimbursement. Each member of the Commission shall be entitled to

8 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A.

9 § 1010.

10 \* \* \*

11 § 1223. PROCEDURE FOR HANDLING COMPLAINTS

12 (a) Accepting complaints.

13 (1) On behalf of the Commission, the Executive Director shall accept

14 complaints from any source regarding governmental ethics in any of the three

15 branches of State government or of the State's campaign finance law set forth

16 in 17 V.S.A. chapter 61.

17 (2) Complaints shall be in writing and shall include the identity of the

18 complainant.

19 (b) Preliminary review by Executive Director. The Executive Director

20 shall conduct a preliminary review of complaints made to the Commission in

1 order to take action as set forth in this subsection, which shall include referring  
2 complaints to all relevant entities.

3 (1) Governmental conduct regulated by law.

4 (A) If the complaint alleges a violation of governmental conduct  
5 regulated by law, the Executive Director shall refer the complaint to the  
6 Attorney General or to the State's Attorney of jurisdiction, as appropriate.

7 (B) The Attorney General or State's Attorney shall file a report with  
8 the Executive Director regarding his or her decision as to whether to bring an  
9 enforcement action as a result of a complaint referred under subdivision (A) of  
10 this subdivision (1) within 10 days of that decision.

11 (2) Department of Human Resources, ~~Code of Ethics~~ Personnel Policy  
12 and Procedure Manual.

13 (A) If the complaint alleges a violation of the Department of Human  
14 Resources, ~~Code of Ethics~~ Personnel Policy and Procedure Manual, the  
15 Executive Director shall refer the complaint to the Commissioner of Human  
16 Resources.

17 (B) The Commissioner shall report back to the Executive Director  
18 regarding the final disposition of a complaint referred under subdivision (A) of  
19 this subdivision (2) within 10 days of that final disposition.

1           (3) Campaign finance.

2           (A) If the complaint alleges a violation of campaign finance law, the  
3           Executive Director shall refer the complaint to the Attorney General or to the  
4           State's Attorney of jurisdiction, as appropriate.

5           (B) The Attorney General or State's Attorney shall file a report with  
6           the Executive Director regarding his or her decision as to whether to bring an  
7           enforcement action as a result of a complaint referred under subdivision (A) of  
8           this subdivision (3) as set forth in 17 V.S.A. § 2904a.

9           (4) Legislative and Judicial Branches; attorneys.

10          (A) If the complaint is in regard to conduct committed by a State  
11          Senator, the Executive Director shall refer the complaint to the Senate Ethics  
12          Panel and shall request a report back from the Panel regarding the final  
13          disposition of the complaint.

14          (B) If the complaint is in regard to conduct committed by a State  
15          Representative, the Executive Director shall refer the complaint to the House  
16          Ethics Panel and shall request a report back from the Panel regarding the final  
17          disposition of the complaint.

18          (C) If the complaint is in regard to conduct committed by a judicial  
19          officer, the Executive Director shall refer the complaint to the Judicial Conduct  
20          Board and shall request a report back from the Board regarding the final  
21          disposition of the complaint.

1           (D) If the complaint is in regard to an attorney employed by the State,  
2           the Executive Director shall refer the complaint to the Professional  
3           Responsibility Board and shall request a report back from the Board regarding  
4           the final disposition of the complaint.

5           (E) If any of the complaints described in subdivisions (A)-(D) of this  
6           subdivision (4) also allege that a crime has been committed, the Executive  
7           Director shall also refer the complaint to the Attorney General and the State's  
8           Attorney of jurisdiction.

9           (5) Closures. The Executive Director shall close any complaint that he  
10          or she does not refer as set forth in subdivisions (1)-(4) of this subsection.

11          (c) Confidentiality. Complaints and related documents in the custody of  
12          the Commission shall be exempt from public inspection and copying under the  
13          Public Records Act and kept confidential.

14          § 1224. COMMISSION ETHICS TRAINING

15          At least annually, in collaboration with the Department of Human  
16          Resources, the Commission shall make available to legislators, State officers,  
17          and State employees training on issues related to governmental ethics. The  
18          training shall include topics related to those covered in any guidance provided  
19          or advisory opinion issued under section 1225 of this subchapter.

1 § 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY

2 OPINIONS

3 (a) Guidance.

4 (1) The Executive Director may ~~issue~~ provide to ~~an Executive officer or~~  
5 ~~other State employee~~ a person who is or will be subject to the provisions of this  
6 chapter, upon his or her request, guidance with respect to that person's duties  
7 regarding any provision of this chapter or regarding any other issue related to  
8 governmental ethics.

9 (2) The Executive Director may consult with members of the  
10 Commission and the Department of Human Resources in preparing this  
11 guidance.

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

15 (b) Advisory opinions.

16 (1) ~~The~~ On the written request of a person who is or will be subject to  
17 the provisions of this chapter, the Executive Director may issue an advisory  
18 ~~opinions~~ opinion to that person that provide provides general advice or  
19 interpretation with respect to that person's duties regarding any provision of  
20 this chapter or regarding any other issue related to governmental ethics.

1           (2) The Executive Director may consult with members of the  
2 Commission and the Department of Human Resources in preparing these  
3 advisory opinions.

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

6           (4) The Executive Director shall post on the Commission's website any  
7 advisory opinions that he or she issues.

8 § 1226. COMMISSION REPORTS

9           Annually, on or before January 15, the Commission shall report to the  
10 General Assembly regarding the following issues:

11           (1) Complaints. The number and a summary of the complaints made to  
12 it, separating the complaints by topic, and the disposition of those complaints,  
13 including any prosecution, enforcement action, or dismissal. This summary of  
14 complaints shall not include any personal identifying information.

15           (2) Guidance. The number of requests for and a summary of the  
16 guidance ~~documents~~ the Executive Director ~~issued~~ provided, separating the  
17 guidance by topic. This summary of guidance shall not include any personal  
18 identifying information.

19           (3) Recommendations. Any recommendations for legislative action to  
20 address State governmental ethics or provisions of campaign finance law.

1       Sec. 2. STATE ETHICS COMMISSION; PROPOSED STATUTORY

2                       STATE CODE OF ETHICS

3               On or before November 15, 2020, the State Ethics Commission shall submit  
4       to the House and Senate Committees on Government Operations a proposed  
5       State Code of Ethics for the General Assembly to consider enacting into law.

6       Sec. 3. 2017 Acts and Resolves No. 79, Sec. 13 is amended to read:

7               Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE

8                       SURCHARGE; REPEAL

9               (a) Surcharge.

10              (1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth  
11       the purpose and rate of charges collected in the Human Resource Services  
12       Internal Service Fund, in fiscal year 2018 and thereafter, a surcharge of up to  
13       2.3 percent, but no greater than the cost of the activities of the State Ethics  
14       Commission set forth in Sec. 7 of this act, on the per-position portion of the  
15       charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive  
16       Branch agencies, departments, and offices and shall be paid by all assessed  
17       entities solely with State funds.

18              (2) The amount collected shall be accounted for within the Human  
19       Resource Services Internal Service Fund and used solely for the purposes of  
20       funding the activities of the State Ethics Commission set forth in Sec. 7 of  
21       this act.

1 (b) Repeal. This section shall be repealed on ~~June 30, 2020~~ July 1, 2021.

2 Sec. 4. EFFECTIVE DATE

3 This act shall take effect on passage.