

Overview of 2019, S.157 (expanding the powers of the State Ethics Commission)

I. Summary of Current State Ethics Commission

The State Ethics Commission (the Commission) was created pursuant to [2017, Act No. 79](#) (Ethics Act) as an independent commission within the Executive Branch. To summarize, the Commission:

- Does not have investigative or enforcement authority.
- Pursuant to [3 V.S.A. § 1223](#), accepts, reviews, makes referrals regarding, and tracks **complaints** regarding the three branches of State government alleging violations regarding:
 - 1) *Governmental conduct regulated by law* (defined in [3 V.S.A. § 1201\(5\)](#) to mean “conduct by an individual in regard to the operation of State government that is restricted or prohibited by law,” including laws regarding bribery, false claims, whistleblower retaliation, and post-public employment restrictions);
 - 2) *Dept. of Human Resources Code of Ethics*;
 - 3) *Campaign finance*; and
 - 4) *Legislative and Judicial Branches and attorneys*.
- Makes those complaint referrals to the entities that currently handle them. Those entities are either required or requested to report back to the Commission on the disposition of the complaint. Any complaint not falling into one of those four categories is to be **closed** by the Commission. The Commission is to keep confidential the complaints and related documents in the custody of the Commission. [3 V.S.A. § 1223](#).
- In consultation with the Department of Human Resources, creates and maintains the **State Code of Ethics** “that sets forth general principles of governmental ethical conduct.” [3 V.S.A. § 1202](#).
- Creates the **disclosure forms** State and legislative candidates and Executive officers are to file. [3 V.S.A. § 1213](#).
- In collaboration with the Department of Human Resources, makes available to legislators, State officers, and State employees **training** on issues related to governmental ethics. [3 V.S.A. § 1224](#).
- Pursuant to [3 V.S.A. § 1225](#), through its Executive Director, issues:
 - a) **Guidance** regarding any issue relating to governmental ethics to an Executive officer or State employee upon his or her request, which shall be kept confidential unless the receiving entity has publicly disclosed it; and
 - b) **Advisory opinions** “that provide general advice or interpretation regarding [[3 V.S.A. ch. 31](#) (governmental ethics)] or any issue related to governmental ethics.” Advisory opinions are to be posted on the Commission’s website.

- **Annually reports** to the General Assembly pursuant to [3 V.S.A. § 1226](#) regarding:
 - *Complaints.* The number and summary of complaints, separated by topic and including their disposition, but not including any personal identifying information.
 - *Municipal complaints.* Pursuant to [2017, Act No. 79, Sec. 17](#) (pg. 31), as a temporary provision effective through the Commission’s Jan. 15, 2021 report, the Commission’s annual report is to include a summary of municipal complaints the Secretary of State is required to accept until Dec. 15, 2020 and report to the Commission.
 - *Guidance.* The number and summary of guidance documents issued, separated by topic, but not including any personal identifying information.
 - *Recommendations.* Any recommendations for legislative action to address State governmental ethics or campaign finance law.

II. Summary of Bill

[2019, S.157 As Introduced](#) would expand the powers of the Commission. Specifically, the bill would:

1. Require the Commission to adopt by rule an enforceable State Code of Ethics that sets forth principles of governmental ethical conduct that are in accordance with—and that do not provide requirements beyond—existing constitutional and statutory provisions. The State Code of Ethics would be enforceable against officials of State government and State employees to the extent permitted under constitutional requirements.
2. Require the Commission to receive, investigate, and adjudicate complaints alleging a violation of the State Code of Ethics, in accordance with due process requirements. Upon a finding that a person violated the State Code of Ethics, the Commission could order a range of penalties, including a cease and desist order and monetary administrative penalties. The SCOV would hear appeals from Commission orders.
3. Create the State Ethics Fund as a special fund, containing revenue received by the Commission (from any monetary administrative penalties).
4. Create a part-time classified investigator position for the Commission.

III. Additional Resources

- [2016, S.184 As Introduced](#)
- [2016, As Passed by Senate](#)
- [2017, Act No. 79 Act Summary](#)
- [2017, Act No. 79 General and Section-by-Section Summary](#)