

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

H.135

Introduced by Representative Gannon of Wilmington

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

(3) 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

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

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

CHAPTER 31. GOVERNMENTAL ETHICS

\* \* \*

1 Subchapter 2. Disclosures

2 § 1211. EXECUTIVE OFFICERS; ~~BIENNIAL~~ ANNUAL DISCLOSURE

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

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

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

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

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

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

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

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

1           (B) a 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           (b) In addition, if an Executive officer's spouse or domestic partner is a  
5 lobbyist, the officer shall disclose that fact and provide the name of his or her  
6 spouse or domestic partner and, if applicable, the name of his or her lobbying  
7 firm.

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

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

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

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

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

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

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

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

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

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

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

13           (2) “Lobbyist” and “lobbying firm” shall have the same meanings as in  
14 2 V.S.A. § 261.

15       § 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR;

16                   ~~BIENNIAL~~ ANNUAL DISCLOSURE

17           (a) ~~Biennially~~ Annually, each member of the Commission and the  
18 Executive Director of the Commission shall file with the Executive Director a  
19 disclosure form that meets the requirements of and contains the information  
20 that Executive officers are required to disclose under section 1211 of this  
21 subchapter.

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

5 § 1213. DISCLOSURES; GENERALLY

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

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

12 Subchapter 3. State Ethics Commission

13 § 1221. STATE ETHICS COMMISSION

14 (a) Creation. There is created within the Executive Branch an independent  
15 commission named the State Ethics Commission to accept, review, make  
16 referrals regarding, and track complaints of alleged violations of governmental  
17 conduct regulated by law, of the Department of Human Resources ~~Code of~~  
18 ~~Ethics~~ Personnel Policy and Procedure Manual, and of the State's campaign  
19 finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to  
20 issue guidance and advisory opinions regarding ethical conduct.

1 (b) Membership.

2 (1) The Commission shall be composed of the following five members:

3 (A) one member appointed by the Chief Justice of the Supreme  
4 Court;

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

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

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

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

14 (2) The Commission shall elect the Chair of the Commission from  
15 among its membership.

16 (3) A member shall not:

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

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

1 (C) be a lobbyist;

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

3 or

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

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

9 (5)(A) A member shall serve a term of ~~three~~ five years and until a  
10 successor is appointed. A term shall begin on January 1 of the year of  
11 appointment and run through December 31 of the last year of the term. Terms  
12 of members shall be staggered so that ~~not all~~ no two terms expire at the same  
13 time.

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

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

1 (c) Executive Director.

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

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

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

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

12 (e) Meetings. Meetings of the Commission:

13 (1) shall be held at least quarterly for the purpose of the Executive  
14 Director updating the Commission on his or her work;

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

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

18 (f) Reimbursement. Each member of the Commission shall be entitled to  
19 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A.  
20 § 1010.

21 \* \* \*



1 § 1223. PROCEDURE FOR HANDLING COMPLAINTS

2 (a) Accepting complaints.

3 (1) On behalf of the Commission, the Executive Director shall accept  
4 complaints from any source regarding governmental ethics in any of the three  
5 branches of State government or of the State's campaign finance law set forth  
6 in 17 V.S.A. chapter 61.

7 (2) Complaints shall be in writing and shall include the identity of the  
8 complainant.

9 (b) Preliminary review by Executive Director. The Executive Director  
10 shall conduct a preliminary review of complaints made to the Commission in  
11 order to take action as set forth in this subsection, which shall include referring  
12 complaints to all relevant entities.

13 (1) Governmental conduct regulated by law.

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

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

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

3           (A) If the complaint alleges a violation of the Department of Human  
4 Resources, ~~Code of Ethics~~ Personnel Policy and Procedure Manual, the  
5 Executive Director shall refer the complaint to the Commissioner of Human  
6 Resources.

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

10          (3) Campaign finance.

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

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

18          (4) Legislative and Judicial Branches; attorneys.

19          (A) If the complaint is in regard to conduct committed by a State  
20 Senator, the Executive Director shall refer the complaint to the Senate Ethics

1 Panel and shall request a report back from the Panel regarding the final  
2 disposition of the complaint.

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

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

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

15 (E) If any of the complaints described in subdivisions (A)–(D) of this  
16 subdivision (4) also allege that a crime has been committed, the Executive  
17 Director shall also refer the complaint to the Attorney General and the State’s  
18 Attorney of jurisdiction.

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

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

4 § 1224. COMMISSION ETHICS TRAINING

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

10 § 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY

11 OPINIONS

12 (a) Guidance.

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

18 (2) The Executive Director may consult with members of the  
19 Commission and the Department of Human Resources in preparing this  
20 guidance.

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

4           (b) Advisory opinions.

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

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

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

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

17 § 1226. COMMISSION REPORTS

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

20           (1) Complaints. The number and a summary of the complaints made to  
21 it, separating the complaints by topic, and the disposition of those complaints,

1 including any prosecution, enforcement action, or dismissal. This summary of  
2 complaints shall not include any personal identifying information.

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

7 (3) Recommendations. Any recommendations for legislative action to  
8 address State governmental ethics or provisions of campaign finance law.  
9 Sec. 2. 2017 Acts and Resolves No. 79, Sec. 13, as amended by 2020 Acts and  
10 Resolves No. 120, Sec. A.8 is further amended to read:

11 Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE

12 SURCHARGE; REPEAL

13 (a) Surcharge.

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

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

5           (b) Repeal. This section shall be repealed on ~~June 30, 2024~~ July 1, 2022.

6           Sec. 3. EFFECTIVE DATE

7           This act shall take effect on passage.