

S.171 – BILL OVERVIEW

S.171 (2022) – An act relating to adoption of a State code of ethics

As Recommended by Senate Committee on Government Operations (Draft 4.2)

S.171 is based on the [proposed code of ethics from the Vermont State Ethics Commission](#) (submitted to SGO and HGO on November 11, 2020), with some modifications.

Section 1

1. Amends and adds definitions in Title 3, chapter 31 (Governmental Ethics), § 1201
2. Places a code of ethics into statute which includes the following main provisions:

§ 1202 – Applicability of the state code of ethics

- **Applies to** all individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State. This code refers to them all as “public servants.”
- Does not prohibit branches of State government, agencies, or departments from adopting additional personnel policies regarding ethical conduct not covered by this Code of Ethics or provisions that exceed the requirements of this Code of Ethics

§ 1203 – Conflict of interest; appearance of conflict of interest

- In the public servant’s official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest.
- The course of action a public servant must take is dependent on the public servant’s position with the State:
 - **A member of the General Assembly** shall comply with Legislative Branch rules and policies regarding the course of action a public servant may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that is related to core legislative functions or duties
 - **A judicial officer** shall comply with the Vermont Code of Judicial Conduct regarding the course of action a judicial officer may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Code of Judicial Conduct
 - A public servant who is **a licensed attorney** shall comply with the Vermont Rules of Professional Conduct regarding the course of action the attorney may take when confronted with a conflict of interest, or the

appearance of a conflict of interest, that falls under the Vermont Rules of Professional Conduct

- **Any public servant facing any other conflict of interest** shall comply with requirements prescribed in subdivision 1203(b)(4):
 - Unless the public servant's action is solely ministerial or clerical, the public servant shall either make a public statement (which may consist of a statement made to the public servant's immediate supervisor) recusing themselves from the matter or, if the public servant chooses to proceed with the matter, prepare a written statement regarding the nature of the conflict and why the public servant has good cause to proceed despite the conflict of interest.

§ 1203a – Directing unethical conduct

- A public servant shall not direct another person to act in a manner that would be unethical for the public servant or the other person to act.

§ 1203b – Appearance of unethical conduct

- A public servant shall avoid any actions creating the appearance that the public servant is violating the Code of Ethics.

§ 1203c – Preferential treatment

- A public servant in the course of conducting State business shall act impartially, showing no favor toward or prejudice against any person.
- When permitted by law and written policy or rule, a public servant may give preference to designated persons.

§ 1203d – Misuse of position

- A public servant shall not use the public servant's official position for personal or financial gain.

§ 1203e – Misuse of information

- A public servant shall not use nonpublic government information or confidential information acquired during the course of State service for personal or financial gain or for the personal or financial gain of any other person

§ 1203f – Misuse of government resources

- A public servant shall not make use of State materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official State business unless the use is expressly permitted or required by law or by a written agency, departmental, or institutional policy or rule.

§ 1203g – Gift limitations and exceptions

- A public servant shall not solicit or accept a gift unless permitted under this section. For purposes of this subchapter, “gift” means anything of value, tangible or intangible, that is given for less than adequate consideration.
- This sections addresses the following situations:
 - Devises and inheritance
 - Gifts to the state
 - Ceremonial awards
 - Discounts, rebates and promotions
 - Printed or recorded materials
 - Food and beverages
 - Admission fees/tickets
 - Private employment gifts
 - Gifts between public servants
 - De minimis gifts and personal gifts
 - Personal loans
- Initial value/cost limits for gifts are set in statute by this bill, but the Ethics Commission may increase the value/cost limits after July 1, 2026 (but not more than once within a 5-year period)

§ 1203h – Unauthorized commitments

- A public servant shall not make unauthorized commitments or promises of any kind purporting to bind State government

§ 1203i – Employment restrictions

- A public servant shall not seek or engage in outside employment or activities that are inconsistent, incompatible, or in conflict with the public servant’s official duties
 - **Executive officers** shall comply with the post-government employment restrictions prescribed in section 267 of this title and 2 V.S.A. § 266(b) and (c)

- **Legislators** shall comply with the post-government employment restrictions prescribed in 2 V.S.A. § 266(b).
- For one year after leaving office, **former Legislative Branch employee** may not, for compensation, appear before the General Assembly or its subparts, or the office in which the employee served in at the time of leaving service, to advocate for anyone other than the State, concerning any matter in which the State has a direct and substantial interest.
- **These limitations do not apply to individuals providing information or services to the State pursuant to contracts of the State** unless the public servant is otherwise prohibited from doing so by State or federal law.
- After leaving State service or employment, **a public servant shall not knowingly, with the intent to advocate for an outcome of an investigation, application, ruling, license, contract, claim, rulemaking, charge, arrest, or quasi-judicial or judicial proceeding, communicate with or appear before the State** on matters involving specific parties in which the employee participated personally and substantially during government service and in which the State is a party or has a direct and substantial interest

§ 1203j – Compliance with laws, rules and policies

- A public servant shall comply with applicable State and federal laws and regulations, including anti-discrimination and equal opportunity laws, and comply with applicable governmental codes of conduct, rules and policies.

§ 1204 – Whistleblower complaints for ethics complaints

- Consistent with section 971–978 of this title, a public servant shall be free to disclose waste, fraud, abuse of authority, violations of law, or violations of this or other applicable codes regarding ethical conduct to the State Ethics Commission without fear of reprisal, intimidation, or retaliation.

§ 1205 – Mandatory ethics and education training

- Within the first 120 days of public service, a public servant shall engage in ethics training, which may be in person or online. This section has additional details about conducting ethics training.

Section 2

Repeals 3 V.S.A. § 1211(e) – a housekeeping change – this repeal removes two definitions from later in the Governmental Ethics chapter to in order to consolidate the definitions for the chapter in the section 1201. The definitions are for “domestic partner” and “lobbyist/lobbying firm”; this repeal does not change the meaning of either of the definitions as they apply to the Governmental Ethics chapter.

Section 3 - Effective date: July 1, 2022