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Act No. 171 (H.875). An act relating to the State Ethics Commission and the State Code of Ethics

Subjects: Executive; governmental ethics; State Ethics Commission; State Code of Ethics

This act accomplishes three broad items: (1) modifies financial disclosure requirements for certain elected officers both running for and holding office and adds officials must file those disclosures; (2) expands the powers of the State Ethics Commission (the Commission), enabling it to investigate, hold hearings, and to issue nonbinding warnings, reprimands, and make nonbinding recommendations; and (3) creates a uniform Municipal Code of Ethics.

Candidate and In-Office Financial Disclosure Requirements

Sec. 1 amends 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form) requiring candidates for *county offices* to submit financial disclosure forms in addition to candidates for State offices and the General Assembly. Here, “county office” means assistant judge of the Superior Court, high bailiff, judge of Probate, sheriff, and State’s Attorney. Candidates will now have to include in their financial disclosures certain information from the prior 12 months including sources of personal income of more than \$5,000 from an employer, certain business with the State if self-employed, membership and position on boards and commissions, loans that are not commercially reasonable, a description—but not amount—of controlled investments valued at \$25,000.00 or more, and the full name of the candidate’s spouse or domestic partner. This section will take effect on January 1, 2026.

Sec. 2 amends 3 V.S.A. § 1201 (definitions) by migrating the definitions of “conflict of interest” and “public servant” from other sections in the chapter. County officers (individuals holding the office of *high bailiff, sheriff, or State’s Attorney*) and State officers’ *deputies* (deputies of the Treasurer, Secretary of State, Auditor of Accounts, and Attorney General, in addition agency secretaries and deputies and department commissioners and deputies) will now have to file financial disclosures.

Sec. 2a repeals 24 V.S.A. § 314 (sheriffs; annual disclosure), the now-redundant disclosure requirements for only sheriffs.

Sec. 3 amends 3 V.S.A. § 1202 (State Code of Ethics; applicability) by migrating the definition of “public servants” to section § 1201.

Sec. 4 amends 3 V.S.A. § 1203 (conflict of interest; appearance of conflict of interest) by migrating the definition of “conflict of interest” to section § 1201.

Sec. 5 amends 3 V.S.A. § 1211 (Executive officers; annual disclosure) to require the same additional information to be disclosed for in-office Executive officers and

county officers as candidates for those offices in Sec. 1, except “county office,” here, means the *high bailiff and State’s Attorney*.

Sec. 6 adds a new section, 17 V.S.A. § 2415 (failure to file; penalties), regarding penalties for candidates for State, county, and legislative offices who do not properly file their financial disclosures, amounting to \$10.00 for each day of delinquency, but not to exceed \$1,000.00 total.

Expansion of State Ethics Commission’s Powers

Sec. 7 amends 3 V.S.A. § 1221 (State Ethics Commission) subsection (a) to empower the State Ethics Commission to independently investigate and hold hearings regarding ethics complaints. This section will take effect on September 1, 2025.

Sec. 8 renames 3 V.S.A. § 1222 (Commission member prohibited conduct). This section will take effect on September 1, 2025.

Sec. 9 renames and amends 3 V.S.A. § 1223 (procedure for accepting and referring complaints). The Commission will now be able to receive and refer complaints made regarding violations of the Municipal Code of Ethics. This section will also require any entity receiving a referred complaint—excluding municipalities—to consult with the Commission regarding the application of the State Code of Ethics to facts presented in the complaint. This section will take effect on September 1, 2025.

Sec. 10 adds a new section, 3 V.S.A. § 1227 (investigations). It enables the Commission to investigate alleged unethical conduct occurring within the prior two years, with or without receiving a complaint. Investigations must conclude within six months and may result in an “investigation report” and subsequent Commission hearing if there is a reasonable basis to believe that the public servant’s conduct constitutes an unethical violation. Investigation and subsequent hearings may only be initiated by a majority of the Commission who have not recused themselves. This section will take effect on September 1, 2025.

Sec. 11 adds a new section, 3 V.S.A. § 1228 (hearings before the Commission). This enables the Commission to hold public hearings for the purpose of gathering evidence and testimony and making determinations. Both the public servant and any complainant will be afforded an opportunity to be heard at the hearing, present evidence, respond to evidence, and argue on all issues related to the alleged unethical misconduct. This section will take effect on September 1, 2025.

Sec. 12 adds a new section, 3 V.S.A. § 1229 (warnings; reprimands; recommended actions; agreements). This enables the Commission to issue warnings, reprimands, and recommended actions within 30 days after the last hearing, unless the Commission extends for good cause or pursuant to an agreement made between the Commission and the public servant. The Commission may enter into a “resolution agreement” with a public servant at any point in time before or during proceedings, which will pause any pending deadlines but require a three-month check-back to ensure compliance. This section will take effect on September 1, 2025.

Sec. 13 adds a new section, 3 V.S.A. § 1230 (procedure; rulemaking). This directs the Commission to adopt rules regarding procedural and evidentiary aspects of the Commission's investigations and hearings. Two-thirds of the Commission's members present and voting may waive the application of a rule. It also grants the Commission, the Executive Director, and the Commission's legal counsel and investigators the power to issue subpoenas and administer oaths in connection with any investigation or hearing; provided, however, the Commission shall first request voluntary cooperation before issuing a subpoena, except in cases where there is reasonable suspicion that materials will not be produced in a timely manner. This section will take effect on July 1, 2025.

Sec. 14 adds a new section, 3 V.S.A. § 1231 (record; confidentiality). Public records relating to the Commission's handling of complaints, alleged unethical conduct, investigations, and proceedings are exempt from the Public Records Act and shall be kept confidential, *except*: (1) investigation reports a hearing is found to be warranted; (2) investigation reports relating to alleged unethical conduct determined to *not* warrant a hearing, if requested by the public servant; (3) evidence produced in the open and public portions of Commission hearings; (4) any warnings, reprimands, and recommendations issued by the Commission; (5) any summary of executed resolution agreements; and (6) any records, as determined by the Commission, that support a warning, reprimand, recommendation, or summary of an executed resolution agreement. This section will take effect on September 1, 2025.

Sec. 15 amends 3 V.S.A. § 1221 (State Ethics Commission) a second time to expand its membership from five to seven members, to include an additional two members, who shall be a former municipal officers. One to be appointed by the Speaker of the House, the other to be appointed by the Senate Committee on Committees.

Sec. 16 removes the requirement that the Commission's Executive Director be part-time. This permits the position to become full-time in the future if funds are appropriated to do so. The position will remain part-time for the time being.

Sec. 18 amends 3 V.S.A. § 1221(e), regarding meetings of the Ethics Commission, to correct a statutory cross-reference.

Sec. 19 renames 3 V.S.A. § 1226 (ethics data collection; Commission reports) and requires those entities to which the Commission refers complaints to report back annually with aggregate data on ethics complaints not submitted to the Commission, with the complaints separated by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. Those reporting entities are the Office of the Attorney General and State's Attorneys' offices, the Department of Human Resources, the House and Senate Ethics Panels, the Judicial Conduct Board, the Professional Responsibility Board, and the Office of the State Court Administrator.

Creation of Municipal Code of Ethics

Sec. 20 repeals 24 V.S.A. § 1984 (conflict of interest prohibition).

Sec. 21 repeals 24 V.S.A. § 2291 (enumeration of powers), subdivision (20).

Sec. 22 creates a new Chapter 60, titled “Municipal Code of Ethics,” in Title 24 (municipal and county government), which includes the new sections 1991–1998.

Section 1991 (definitions) defines important terms such as “conflict of interest” and “municipal officer.” Municipal officers include members of local legislative and quasi-judicial bodies, and certain enumerated local officers.

Section 1992 (conflicts of interest) in subsections (a) and (b) creates an affirmative duty for municipal officers to avoid conflicts of interest (and the *appearance* of conflicts of interest) and to recuse themselves, *unless* the officer determines there is “good cause” to proceed and notifies the legislative body of the town, city, or village with a written justification for proceeding.

Section 1993 (prohibited conduct) prohibits directing unethical conduct; preferential treatment; misuse of position; misuse of information; misuse of government resources; offering, soliciting, or accepting gifts (excluding legal campaign contributions); unauthorized commitments; and benefitting from contracts. Now, a municipal officer shall not benefit from any contract unless the benefit is not greater than that of other individuals generally affected by the contract; the contract is a contract for employment with the municipality; the contract was awarded via an open and public process of competitive bidding; or the total value of the contract is less than \$2,000.00.

Section 1994 (guidance and advisory opinions) replicates the guidance and advisory opinions section of the State Code of Ethics (3 V.S.A. § 1225) to enable the Executive Director of the State Ethics Commission may provide guidance and advisory opinions to *municipal officers* with respect to a municipal officer’s duties regarding the Municipal Code of Ethics and any other issue related to governmental ethics.

Section 1995 (ethics training) requires that, within 120 days after the election or appointment of a member of a legislative body or a quasi-judicial body, or a chief administrative officer, mayor, town or city manager, those individuals undergo ethics trainings, approved by the State Ethics Commission, and again thereafter every three years.

Section 1996 (duties of municipalities) requires municipalities to post the Municipal Code of Ethics and information on local investigation and enforcement procedures, track completed trainings, designate who should receive ethics complaints, initiate ethics complaints, track ethics complaints and the dispositions of these, and provide the State Ethics Commission with a summary of ethics complaints received and the disposition of these.

Section 1997 (enforcement and remedies) requires municipalities to adopt, by ordinance, rule, or personnel policy, procedures for the investigation of complaints that allege a municipal officer has violated the Municipal Code of Ethics and the enforcement in instances of substantiated complaints, including methods of enforcement and available remedies.

Section 1998 (whistleblower protection) replicates State employees protections to protect municipal employees from retaliation if they disclose any waste, fraud, abuse of authority, violations of law, or ethical violations to a relevant public body.

Section 1999 (municipal charters; supplemental ethics policies) permits municipalities to adopt additional ethics or personnel policies provided these are not in conflict with the new Chapter 60. It also specifies that Chapter 60 preempts conflicting provisions in any municipal charters.

Sec. 23 will require all currently employed municipal officers to complete two hours of ethics training, which may be either in person or online. The training will also include information on the State's Open Meeting Law and the State's Public Records Act, which shall be approved by the Secretary of State.

Multiple effective dates, beginning on June 10, 2024