

BILL SUMMARY
“Miscellaneous Ethics Bill”
or
“State Ethics Commission & State Code of Ethics Bill”

Purpose: This bill proposes to:

- require that certain county officers both running for and holding office file financial disclosures;
- modify disclosure requirements for certain elected officers both running for and holding office;
- create penalties for delinquent disclosures for candidates and for State office, county office, State Senator, and
- State Representative;
- grant the State Ethics Commission powers to investigate, hold hearings, and to issue warnings, reprimands, and recommended actions;
- create a full-time, exempt Legal Counsel position in the State Ethics Commission and reclassify the Executive Director of the State Ethics Commission from a part-time to a full-time, exempt State employee;
- add a member to the State Ethics Commission to be appointed by the Vermont League of Cities and Towns;
- create a uniform Municipal Code of Ethics; and
- repeal redundant municipal ethics law and require municipal officers currently in office to complete initial ethics training.

Background on Existing Disclosure Requirements:

[17 V.S.A. § 2414](#), requires *candidates for State office and the Legislature* to disclose:

- (1) Each **source**—but not amount—of **personal income over \$5,000** for them and their spouses/domestic partners;
- (2) **Boards and commissions** on which they served, if those boards and commissions were regulated by law or received funding from the State;
- (3) **Any company** of which they or their spouses/domestic partners **own more than 10%**;
- (4) Any **lease or contract with the State** held or entered into by them, their spouses/domestic partners, or any company of which they or their spouses/domestic partners own more than 10%;
- (5) Name and firm if their spouses/domestic partners are lobbyists.

Only State Officers—not legislators—must also submit a partially redacted U.S. Individual Income Tax Return Form 1040.

[3 V.S.A. § 1211](#) requires active Executive Officers—*not legislators*—to continue to annually disclose the same information required under [17 V.S.A. § 2414](#). (Note: “Executive Officers” mean the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, Attorney General, and agency secretaries, commissioners, and deputies under the Governor.)

Background on Existing Duties of the State Ethics Commission Include:

- 1) Making referrals and tracking complaints of alleged violations of:
 - a) governmental conduct regulated by law,
 - b) of the Department of Human Resources Personnel Policy and Procedure Manual, and
 - c) State campaign finance law.
- 2) Providing ethics training.
- 3) Issue guidance and advisory opinions regarding ethical conduct.

Background on Existing Conflict of Interest Statutes for Municipalities:

- [24 V.S.A. § 1984 \(Conflict of interest prohibition\)](#): Under § 1984 each municipality is required to adopt a conflict of interest policy or ordinance (by majority vote of those present and voting at an annual or special meeting) which must include:
 - (A) A definition of “conflict of interest.”
 - (B) A list of the elected and appointed officials covered by such prohibition.
 - (C) A method to determine whether a conflict of interest exists.
 - (D) Actions that must be taken if a conflict of interest is determined to exist.
 - (E) A method of enforcement against individuals violating such prohibition.

Importantly, municipalities may have different definitions of what is a “conflict of interest.” They may either use the default definition in statute or create their own.

- [24 V.S.A. § 2291 \(Enumerations of powers\), subsection \(20\)](#): Under § 2991(2), municipalities may “establish a conflict-of-interest policy to apply to all elected and appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.”

PART ONE: Candidate Financial Disclosure Requirements. (Sec. 1)

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.

Subsection (a), will require those disclosure forms to include certain information *from the prior 12 months*:

1. Sources of personal income of more than \$5,000 from an employer.
2. If self-employed, a description of the nature of the self-employment, including the names of any clients, known to the candidate or the candidate’s domestic partner, whose principal business activities are regulated by or that have a contract with any municipal or State office, department, or agency, provided that the disclosed information is not confidential information.
3. Membership and position on *any* board or commission.
4. Loans made to a company if the candidate owned more than 10% of that company and if the loan was not commercially reasonable and made in the ordinary course of business, which has now been defined to mean a loan made: (A) in the usual manner on any recognized market; (B) at the price

current in any recognized market at the time of making the loan; or (C) otherwise in conformity with reasonable commercial practices among lenders typically dealing in the type of loan made.

5. Companies in which the candidate had an ownership or controlling interest that had business with the State or municipality.
6. A description—but not amount—of controlled publicly traded assets and interests in investment funds and in trust valued at \$25,000.00 or more and municipal bonds issued in the State of Vermont of any value. These are to be reported “to the best of the candidate’s knowledge,” which permits a candidate to describe blind trusts and similar assets likely unknown to an investor.
7. The full name of the candidate’s spouse or domestic partner.

Note: The same disclosure requirements have been added in Sec. 5, below, for Executive officers and some county officers.

Subsection (c) would enable candidates to redact their U.S. Individual Income Tax Return Form 1040:

1. the candidate’s street address; and
2. any identifying information and signature of a paid preparer.

PART TWO: In-Office Financial Disclosure Requirements. (Secs. 2-5)

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. A new definition for “county officer” has been added (meaning “an individual holding the office of county treasurer or State’s Attorney”). The definition of “executive officer” has been amended to include a “deputy under a State officer,” which, in effect, will require annual disclosures from deputies of the Treasurer, Secretary of State, Auditor of Accounts, and Attorney General, in addition to the current agency secretaries and deputies, department commissioners and deputies.

This section also adds to the definition of “government conduct regulated by law” the “creating or permitting to persist any unlawful employment practice pursuant to [21 V.S.A. § 495 \[Fair Employment Practices\]](#),” which includes discrimination and sexual harassment. This will enable the State Ethics Commission to refer and track complaints of this conduct.

Sec. 3 amends [3 V.S.A. § 1202 \(State Code of Ethics; Applicability\)](#) by migrating the definition of “public servants” to the Definitions section in § 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 the Definitions section in § 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 above**, except “county office,” here, means the high bailiff and State’s Attorney. Note: Sheriffs were given their own conflict of interest and disclosure sections in 2023, Act 30 (S.17). The [Vermont Code of Judicial Conduct](#).

PART THREE: Delinquent Disclosures for Candidates for State Office, County Office, State Senator, and State Representative. (Sec. 6)

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.

Subsections (a)-(c) create a penalty structure. The Secretary of State will notify the State Ethics Commission which will issue a notice of delinquency to the candidate. The candidate shall have five working days from the date of the issuance of the notice to cure the delinquency, after which the candidate will pay \$10.00 a day, up to \$1,000.00.

Subsection (e) makes any intentionally fraudulent statements on disclosure forms a “false claim” pursuant to [13 V.S.A. § 3016](#), which shall be referred to the Attorney General or a State’s Attorney for enforcement.

PART FOUR: Expansion of State Ethics Commission’s Powers (Sec. 7-14)

Note: The following sections would expand the Commission’s powers, enabling it to investigate, hold hearings, and make non-binding recommendations.

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.

- Note: § 1221 is also amended by Sec. 11 which adds another member to the Commission, and by Sec. 12 which removes the requirement that the Commission’s Executive Director be part-time.

Sec. 8 renames [3 V.S.A. § 1222](#) “Commission Member Prohibited Conduct.”

Sec. 9 renames and amends [3 V.S.A. § 1223](#), “Procedure for Accepting and Referring Complaints,” to require any entity receiving a referred complaint to consult with the Commission regarding the application of the State Code of Ethics to facts presented in the complaint. The consultation shall occur within 60 days of an entity receiving a referred complaint and prior to the entity making a determination on the complaint, meaning either closing a complaint without further investigation or issuing findings following an investigation. The Commission and the entity receiving a referred complaint shall memorialize the content of the consultation in writing, **which will be a publicly available record.**

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.

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.

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 of the last hearing, unless the Commission extends for good cause or pursuant to an agreement made between the Commission and the public servant. The recommendations may include facilitated mediation, additional training and education, referrals to counseling and wellness support, or other remedial actions. 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.

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.

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 warranted, if requested by the public servant; (3) evidence produced in the open and public portions of Commission hearings; and (4) any warnings, reprimands, and recommendations issued by the Commission; (5) any resolution agreements; and (6) any records, as determined by the Commission, that support a warning, reprimand, recommendation, or executed resolution agreement.

*Note: there is no appeal process, namely because there is no binding final decision (e.g. no expulsion or office, no fine, no loss of property right, etc.)—that is, there is nothing to appeal.

PART FIVE: State Ethics Commission Membership. (Sec. 15)

Sec. 15 amends [3 V.S.A. § 1221 \(State Ethics Commission\)](#) a second time to expand its membership from five to six members, to include an additional member one member, appointed by the Vermont League of Cities and Towns.

- Note: § 1221 is also amended by Sec. 7 to empower the State Ethics Commission to independently investigate and hold hearings regarding ethics complaints, and by Sec. 12 to remove the requirement that the Commission’s Executive Director be part-time.

PART SIX: State Ethics Commission Staffing. (Secs. 16-17)

Secs. 16 and 17, together, convert the Commission’s positions of Executive Director and Administrative Assistant from part-time to full-time and adds a full-time attorney. Sec. 16 removes the requirement that the Commission’s Executive Director be part-time, and Sec. 17 reclassifies those positions and appropriates funds for each (\$150,000.00 Legal Counsel, \$150,000.00 for the Executive Director, and \$57,000.00 for the Administrative Assistant).

PART SEVEN: Citation Correction. (Sec. 18)

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

PART EIGHT: Ethics Data Collection. (Sec. 19)

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.

PART NINE: Repeal of Redundant Ethics Law. (Secs. 20-21)

Sec. 20 repeals [24 V.S.A. § 1984 \(Conflict of interest prohibition\)](#).

Sec. 21 repeals [24 V.S.A. § 2291 \(Enumeration of powers\)](#), subsection (20).

PART TEN: Creation of Municipal Code of Ethics. (Sec. 22)

Sec. 3 creates a new Chapter 60, titled “Municipal Code of Ethics,” in [Title 24 \(Municipal and County Government\)](#), which includes the new sections 1991-1998.

§ 1991, “Definitions,” defines important terms such as “conflict of interest” and “municipal officer.” Municipal officers include members of legislative and quasi-judicial bodies, as well as individuals who, as part of their official municipal duties, exercise authority and discretion in performing any governmental action or function, other than in a solely clerical, secretarial, or ministerial capacity. Members of advisory bodies are *not* considered municipal officers.

§ 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.

Notes:

- “Good cause” means the conflict is amorphous, intangible, or otherwise speculative; the officer cannot legally or practically delegate the matter; or the action to be taken by the officer is purely ministerial and does not involve substantive decision-making.
- After recusal, an officer may still take action on the matter if the officer is a party in a contested hearing or litigation and acts only in their capacity as a member of the public.
- An officer whose official duties include execution of contracts shall recuse themselves from any decision-making process involved in the awarding of a contract that would benefit them.

Subsection (c) enables members of a public body to ask a municipal officer about any possible conflicts of interest, if that officer is part of that public body and to recommend that the member recuse themselves from the matter.

§ 1993, “Prohibited Conduct,” prohibits:

- (a) Directing unethical conduct;
- (b) Preferential treatment;
- (c) Misuse of position;
- (d) Misuse of information;
- (e) Misuse of government resources;
- (f) Offering, soliciting, or accepting gifts (excluding legal campaign contributions);
- (g) Unauthorized commitments; and
- (h) Benefitting from contracts.

Note: Now, a municipal officer shall not benefit from any contract unless:

- (1) the benefit is not greater than that of other individuals generally affected by the contract;
- (2) the contract is a contract for employment with the municipality;
- (3) the contract was awarded via an open and public process of competitive bidding; or
- (4) the total value of the contract is less than \$2,000.00.

§ 1994, “Guidance and Advisory Opinions” replicates the guidance and advisory opinions section of the State Code of Ethics ([3 V.S.A. § 1225](#)) to enabling 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.

§ 1995, “Ethics Training,” requires municipal officers to undergo ethics trainings, approved by the State Ethics Commission, when becoming an officer and again thereafter every three years.

§ 1996, “Enforcement and Remedies,” requires towns, cities, and villages to:

- (1) Post the Municipal Code of Ethics;
- (2) Track completed trainings;
- (3) Designate who should receive ethics complaints;
- (4) Initiate ethics complaints;
- (5) Track ethics complaints and the dispositions of these; and
- (6) Provide the State Ethics Commission with a summary of ethics complaints received and the disposition of these.

§ 1997, “Whistleblower Protection,” protects municipal officers, employees, and any other individuals from retaliation if they disclose any waste, fraud, abuse of authority, violations of law, or ethical violations to a relevant public body. This section also prohibits antiwhistleblower policies (e.g. non-

disclosure agreements) and provides injured individuals to bring civil actions for retaliation experienced for whistleblowing.

§ 1998, “Municipal Charters; Supplemental Ethics Policies,” permits municipalities to adopt additional ethics or personnel policies so long as these are not in conflict with the new Chapter 60. It also specifies that Chapter 60 preempts conflicting provisions in any municipal charters.

PART ELEVEN: Initial Ethics Training for In-Office Municipal Officers. (Sec. 23)

Sec. 4 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.

PART TWELVE: Effective Dates. (Sec. 24)

Sec. 20 now has three roll-out periods.

Sections taking effect on passage:

- Secs. 2-5 regarding in-office financial disclosure requirements;
- Sec. 6 regarding delinquent disclosures for candidates for State office, county office, State Senator, and State Representative;
- Sec. 13 regarding the State Ethics Commission’s new rulemaking authority;
- Sec. 15 regarding State Ethics Commission membership;
- Secs. 16-17 regarding State Ethics Commission staffing;
- Sec. 18 regarding a citation correction; and
- Sec. 19 regarding ethics data collection.
- Sec. 20 repealing 24 V.S.A. § 1984 (Conflict of interest prohibition).
- Sec. 21 repealing 24 V.S.A. § 2291 (Enumeration of powers), subsection (20).
- Sec. 22 creating the Municipal Code of Ethics via a new 24 V.S.A. Chapter 60.
- Sec. 23 regarding initial ethics training for in-office municipal officers.

Sections taking effect on January 1, 2025:

- Secs. 7-12, 14 regarding the State Ethics Commission’s expanded powers, excluding rulemaking authority.

Section taking effect on January 1, 2026:

- Sec. 1 regarding candidate financial disclosure requirements.