

Testimony – Senate Government Operations – Amended Ethics Laws H. 875

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Good afternoon. Thank you for the opportunity to testify on this bill. My remarks will be relatively brief.

As a general matter I do not have objections to the bill. We support the work of the Ethics Commission and have supported efforts to enact a statewide code of ethics. This bill would enact that statewide standard.

Our concerns have always been twofold –

First, that requirements are clear and reasonable and not so onerous so as to discourage those best qualified from serving as elected officials and public servants.

Both the public and private sectors of Vermont are healthier and more vibrant when individuals have hands-on knowledge and work experience in both the public and private sectors.

And second, the need for safeguards to avoid attempts to weaponize the Ethics Commission. As candidates for public office, you all are likely aware there is the opportunity for mischief simply in making the accusation.

Fortunately, I think this bill does a good job avoiding those pitfalls for the most part. That said I have few questions:

1. With regard to sources of sources of personal income:
 - a. Bottom of p. 1 to top of p. 2 – what exactly does this mean? Perhaps needs to be reorganized? If self-employed, the nature of the self-employment, the names of clients -unless confidential (by what standard?) - whose principal business activities are regulated by or have a contract with any municipal or State office, department or agency – (if known?)
 - b. P. 2 – Subsection 3(B) - lines 14-15 – “Not a commercially reasonable loan” - (defined on p. 5, lines 9-15) seems intended to capture the personal note with repayments being made to the candidate – this is clearly personal income. If this is the intent, why not say that. Or if you have sold over 10% interest in a company – wouldn’t the purchaser be relevant? -
 - c. P. 3 – investment funds valued at over \$25,000 with no control – so for state employees with very little choice of investment manager, this includes defined contribution and deferred compensation accounts? Teachers and others in the workforce with retirement accounts?

These same concerns are applicable to the extent they are duplicated in Section 5 – changes to 3 V.S.A. 1211 (starting on page 12).

I support the expansion of the definition of “public servant.” The Executive Branch has long had a Governor’s Code of Ethics applicable to all exempt employees in the Executive Branch. Appointees who are by law or who have taken the position they are accountable only to other appointees - and not to an elected official - will have some accountability to the public.

The penalty provisions are fair. They include notice and a period to cure and a waiver provision.

I have no objections to expanding the power of the Ethics Commission, but this will be resource dependent. I appreciate complaints and investigations will be confidential until such time as there is a reasonable basis for finding unethical conduct and holding a hearing. There is notice to the public servant and the right to participate.

p. 28 line 3, subsection (d) – 2 thoughts – does the Commission need subpoena power and the authority to administer oaths? I would argue this can be added if needed. If so, I would soften it and add a cause in line 7 , following the words “...investigation or hearing to read “;provided, however, the Commission shall first request voluntary cooperation.”

p. 33 Section 20, regarding redundant provisions, Sheriffs already have a conflict of interest and financial disclosure requirement in 24 V.S.A. 313, 314.

I leave it to the municipal stakeholders to comment on the expansion of ethics obligations to municipalities.

Thank you.