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H.1

Introduced by Representatives LaLonde of South Burlington, Cina of
Burlington, Ode of Burlington, and Sibilia of Dover

Referred to Committee on

Date:

Subject: Executive; governmental ethics; State Ethics Commission; procedure
for accepting and referring ethics complaints

Statement of purpose of bill as introduced: This bill proposes to exempt the
House and Senate Ethics Panels from the requirement to consult with the
Executive Director of the State Ethics Commission on any complaint referred
to the Panels by the Commission.

An act relating to accepting and referring complaints by the State Ethics
Commission

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

~~Sec. 1. REPEAL~~

~~2024 Acts and Resolves No. 171, Sec. 9 (3 V.S.A. § 1223) is repealed.~~

~~Sec. 2. 3 V.S.A. § 1223 is amended to read:~~

~~§ 1223. PROCEDURE FOR HANDLING ACCEPTING AND REFERRING~~

~~COMPLAINTS~~

1 ~~(b) Preliminary review by Executive Director. The Executive Director~~
2 shall conduct a preliminary review of complaints made to the Commission in
3 order to take action as set forth in this subsection, which shall include referring
4 complaints to all relevant entities, including the Commission itself.

5 * * *

6 (5) Municipal Code of Ethics. If the complaint alleges a violation of the
7 Municipal Code of Ethics, the Executive Director shall refer the complaint to
8 the designated ethics liaison of the appropriate municipality.

9 ~~(5)(6) Closures. The Executive Director shall close any complaint that~~
10 ~~he or she the Executive Director~~ does not refer as set forth in subdivisions (1)–
11 ~~(4)(5) of this subsection.~~

12 (c) Consultation on unethical conduct. If the Executive Director refers a
13 complaint under subsection (b) of this section, the Executive Director shall
14 signify any likely unethical conduct described in the complaint. Any entity
15 receiving a referred complaint, except those in subdivisions (b)(5) and
16 (b)(4)(A)–(B) of this section, shall consult with the Commission regarding the
17 application of the State Code of Ethics to facts presented in the complaint.
18 The consultation shall be in writing and occur within 60 days after an entity
19 receives a referred complaint and prior to the entity making a determination on
20 the complaint, meaning either closing a complaint without further
21 investigation or issuing findings following an investigation.

1 ~~(d) 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, except as provided for in section
4 1231 of this title.

5 Sec. 3. EFFECTIVE DATES

6 This act shall take effect on passage, except that Sec. 2 (amending 3 V.S.A.
7 § 1223) shall take effect on September 1, 2025.

Sec. 1. 3 V.S.A. § 1223 is amended to read:

§ 1223. PROCEDURE FOR ACCEPTING AND REFERRING

COMPLAINTS

(a) Accepting complaints.

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

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

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection and section 1223d of this title,

~~which shall include referring complaints to all relevant entities, including the Commission itself.~~

~~* * *~~

~~(4) Legislative and Judicial Branches; attorneys.~~

~~(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.~~

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

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

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

~~(E) If any of the complaints described in subdivisions (1) - (D) of this subdivision (4) also allege that a crime has been committed, the Executive Director shall also refer the complaint to the Attorney General and the State's Attorney of jurisdiction.~~

~~(5) Municipal Code of Ethics. If the complaint alleges a violation of the Municipal Code of Ethics, the Executive Director shall refer the complaint to the designated ethics liaison of the appropriate municipality.~~

~~* * *~~

~~(c) Consultation on unethical conduct.~~

~~(1) If the Executive Director refers a complaint under subsection (b) of this section, the Executive Director shall signify any likely unethical conduct described in the complaint. Any entity receiving a referred complaint, except those in subdivision (b)(5) of this section, shall consult with the Commission regarding the application of the State Code of Ethics to facts presented in the complaint.~~

~~(A) For complaints referred under subdivision (b)(4) of this section, the Executive Director shall specify the application of the State Code of Ethics to facts presented in the complaint and include a recommended action.~~

~~(B) For all other complaints referred under subsection (b) of this section, except those in subdivisions (b)(4) and (5) of this section, an entity receiving a complaint shall consult with the Commission regarding the~~

~~application of the State Code of Ethics to facts presented in the complaint~~

~~The consultation shall be in writing and occur within 60 days after ~~an~~ the entity receives ~~a~~ the 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.~~

~~(2) Any advice the Commission provides during the consultation process shall be confidential and nonbinding on the entity.~~

Sec. 2. EFFECTIVE DATE

~~This act shall take effect September 1, 2025 and shall supersede those provisions of 2024 Acts and Resolves No. 171, Sec. 9 that amended 3 V.S.A. § 1223 and that conflict with the language in this act.~~

Sec. 1. 3 V.S.A. § 1223 is amended to read:

§ 1223. PROCEDURE FOR ACCEPTING AND REFERRING COMPLAINTS

(a) Accepting complaints.

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

* * *

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection and section 1223a of this title, which shall include referring complaints to all relevant entities, including the Commission itself.

(1) Governmental conduct regulated by law.

* * *

(2) Department of Human Resources, Personnel Policy and Procedure Manual.

* * *

(3) Campaign finance.

* * *

(4) Legislative and Judicial Branches; attorneys.

* * *

(5) Municipal Code of Ethics. If the complaint alleges a violation of the Municipal Code of Ethics, the Executive Director shall refer the complaint to the designated ethics liaison of the appropriate municipality.

(6) The Executive Director shall close any complaint that the Executive Director does not refer as set forth in subdivisions (1)–(5) of this subsection.

(c) Consultation on unethical conduct Commission advice on the application of the State Code of Ethics on referred complaints.

(1) If the Executive Director refers a complaint under subsection (b) of this section, the Executive Director shall signify any likely unethical conduct described in the complaint.—Any entity receiving a referred complaint and, except those for complaints alleging a violation of the Municipal Code of Ethics as set forth in subdivision (b)(5) of this section, shall consult with the Commission regarding the specify any application of the State Code of Ethics to facts the allegations presented in the complaint and include a recommended action. The consultation shall be in writing and occur within 60 days after an entity receives 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.

(2) Any advice the Commission provides to the referred entity under this subsection shall be confidential and nonbinding on the entity.

(d) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential,—except as provided for in section 1231 of this title.

Sec. 2. 3 V.S.A. § 1223 is amended to read:

§ 1223. PROCEDURE FOR ACCEPTING AND REFERRING

COMPLAINTS

** * **

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

* * *

(d) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential, except as provided for in section 1231 of this title.

Sec. 3. 3 V.S.A. § 1231 is amended to read:

§ 1231. RECORDS; CONFIDENTIALITY

(a) Intent. It is the intent of this section both to protect the reputation of public servants from public disclosure of frivolous complaints against them and to fulfill the public's right to know any unethical conduct committed by a public servant that results in issued warnings, reprimands, or recommended actions.

(b) Public records. Except as where otherwise provided in this chapter, public records relating to the Commission's handling of complaints, alleged unethical conduct, investigations, proceedings, and executed resolution agreements are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except those public records

required or permitted to be released under this chapter. Records subject to public inspection and copying under the Public Records Act shall include:

* * *

(6) any records, as determined by the Commission, that support a warning, reprimand, recommendation, or summary of an executed resolution agreement, including consultations created pursuant to subsection 1223(c) of this title and investigation reports in accordance with subdivisions (1) and (2) of this subsection.

* * *

Sec. 4. 2024, Acts and Resolves No. 171 (2024 Ethics Act), Sec. 24 is amended to read:

Sec. 24. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 13 (adding 3 V.S.A. § 1230, Commission procedure, rulemaking) shall take effect on July 1, 2025 2027;

(2) Sec. 22 (creating Municipal Code of Ethics) shall take effect on January 1, 2025;

(3) Sees Sec. 7 (amending 3 V.S.A. § 1221(a), describing expansion of Commission powers); shall take effect on September 1, 2027;

(4) Sec. 8 (amending 3 V.S.A. § 1222; title redesignation); shall take effect on July 1, 2025;

(5) Sec. 9 (amending 3 V.S.A. § 1223, Commission procedure for accepting and referring complaints); shall take effect on September 1, 2025.

(6) Secs. 10 (adding 3 V.S.A. § 1227, Commission investigations), 11 (adding 3 V.S.A. § 1228, Commission hearings), 12 (adding 3 V.S.A. § 1229, Commission warnings, reprimands, recommended actions, and agreements), and 14 (adding 3 V.S.A. § 1231, Commission public records regarding complaints) shall take effect on September 1, 2025 2027; and

(7) Sec. 1 (amending 17 V.S.A. § 2414, candidate disclosures) shall take effect on January 1, 2026.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 1 (amending 3 V.S.A. § 1223, Commission procedure for accepting and referring complaints) shall take effect on September 1, 2025 and shall supersede those provisions of 2024 Acts and Resolves No. 171, Sec. 9 that amended 3 V.S.A. § 1223 and that conflict with the language in this act;

(2) Sec. 2 (amending future version of 3 V.S.A. § 1223) shall take effect on September 1, 2027; and

(3) Sec. 3 (amending 3 V.S.A. § 1231, Commission public records regarding complaints) shall take effect on September 1, 2027 and shall supersede those provisions of 2024 Acts and Resolves No. 171, Sec. 14 that amended 3 V.S.A. § 1231 and that conflict with the language in this act.