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H.846

Introduced by Representatives Scheuermann of Stowe, Bouchard of Colchester, Branagan of Georgia, Browning of Arlington, Burditt of West Rutland, Campion of Bennington, Carr of Brandon, Consejo of Sheldon, Cross of Winooski, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Higley of Lowell, Keenan of St. Albans City, Kitzmiller of Montpelier, Komline of Dorset, Krebs of South Hero, Myers of Essex, Sharpe of Bristol, Shaw of Pittsford, Strong of Albany, Terenzini of Rutland Town, Woodward of Johnson, and Wright of Burlington

Referred to Committee on

Date:

Subject: Legislature; ethics; executive; ethics

Statement of purpose of bill as introduced: This bill proposes to establish ethics rules for elected and appointed officials in the Executive Branch and for members of the General Assembly, establish the Vermont Ethics Commission, and require that elected and appointed officials file a financial disclosure statement.

1 An act relating to ethics rules for the Executive and Legislative Branches of
2 government and the creation of the Vermont Ethics Commission

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

4 Sec. 1. 2 V.S.A. § 23 is added to read:

5 § 23. ETHICS

6 Prohibited conduct. A member of the General Assembly shall not:

7 (1) use his or her position to secure special privileges or exemptions for
8 himself or herself or for any family member or member of his or her
9 household;

10 (2) use State property unless the use is reasonably related to his or her
11 official responsibilities or the conduct is permitted pursuant to a rule or policy
12 of the General Assembly;

13 (3) take any official action in a matter in which he or she has a conflict
14 of interest;

15 (4) take any official action that materially advances the interest of any
16 person with whom he or she is seeking employment;

17 (5) disclose confidential or privileged information obtained as a result of
18 serving as a member of the General Assembly unless the disclosure is:

19 (A) required by law; or

20 (B) necessary to carry out the member's duties;

1 (2) use his or her public office to secure special privileges or exemptions
2 for himself or herself or for any family member or member of the official's
3 household;

4 (3) use State property unless the use is reasonably related to his or her
5 official responsibilities or the conduct is permitted pursuant to a State or
6 agency personnel policy;

7 (4) take any official action in a matter in which he or she has a conflict
8 of interest or the appearance of a conflict of interest;

9 (5) take any official action that materially advances the interest of any
10 person with whom the elected or appointed official is seeking employment;

11 (6) disclose confidential or privileged information obtained while in
12 State employ unless the disclosure is:

13 (A) required by law; or

14 (B) necessary to carry out the official's duties;

15 (7) trade in stock or otherwise transact private business based upon
16 confidential or privileged information obtained through his or her work on
17 behalf of the State; or

18 (8) solicit or receive a payment, gift, trip, or favor of other than nominal
19 value from any person who intends to influence an official decision or action
20 by the elected or appointed official.

1 (c) Prohibited conduct, appointed officials. In addition to the conduct
2 prohibited in subsection (b) of this section, an appointed official shall not:

3 (1) solicit or receive a payment, gift, trip, or favor of other than nominal
4 value from any person who:

5 (A) has, or seeks to obtain, contractual or other business or financial
6 relationships with the appointed official's department, agency, board, or
7 commission;

8 (B) conducts business or activities that are regulated by the appointed
9 official's department, agency, board, or commission; or

10 (C) has an interest that may be substantially affected by the appointed
11 official's official actions; or

12 (2) own or have a substantial financial interest in any entity that is
13 subject to the supervision of his or her department, agency, board, or
14 commission except:

15 (A) as a policyholder in an insurance company or a depositor in
16 a bank;

17 (B) if the interest is no greater than that of other persons who might
18 be generally affected by the department's, agency's, board's, or commission's
19 supervision; or

20 (C) if the interest is disclosed at the time of appointment and the
21 Vermont Ethics Commission grants a waiver.

1 (d) Financial disclosure form. Within 30 days of appointment and
2 thereafter annually on July 15, every elected official and every appointed
3 official who earns \$30,000.00 or more per year shall file a financial disclosure
4 form with the Vermont Ethics Commission pursuant to section 1406 of this
5 chapter.

6 (e) Restrictions on employment after leaving public office.

7 (1) An elected or appointed official in the Executive Branch shall not
8 accept employment for a period of two years after the termination of his or her
9 public office if the employment:

10 (A) is from a person who is regulated by the department, agency,
11 board, or commission on which the elected or appointed official served or was
12 employed; or

13 (B) involves a matter which the elected or appointed official
14 supervised, managed, or directly participated in during the term of his or her
15 public office.

16 (2) An elected or appointed official in the Executive Branch shall not,
17 for pecuniary gain, be an advocate for any person before any department,
18 agency, board, or commission, or before the General Assembly for a period of
19 two years after the termination of his or her public office if the advocacy
20 concerns a matter:

1 (A) regulated by the department, agency, board, or commission on
2 which the elected or appointed official served or was employed; or

3 (B) the elected or appointed official supervised or managed during
4 the term of his or her office.

5 § 1402. VERMONT ETHICS COMMISSION

6 (a) Creation. There is created a Vermont Ethics Commission.

7 (b) Membership.

8 (1) The Commission shall be composed of the following five members:

9 (A) one current member of the House of Representatives who shall
10 be appointed by the Speaker of the House;

11 (B) one current member of the Senate who shall be appointed by the
12 Committee on Committees;

13 (C) two members, not from the same political party, who shall be
14 appointed by the Governor; and

15 (D) one member who shall be appointed by the Lieutenant Governor.

16 (2) The members of the Commission shall be appointed for terms of five
17 years each. A member of the Commission appointed to fill a vacancy
18 occurring other than by expiration of a term shall be appointed only for the
19 unexpired portion of the term. Members of the Commission shall be eligible
20 for reappointment.

1 (3) When the members of the Commission are first appointed, the
2 Governor shall designate one for a term of two years, one for a term of three
3 years, one for a term of four years, and two for a term of five years.

4 (c) Power and duties. The Commission shall have the powers and duties
5 set forth in section 1404 of this chapter.

6 (d) Meetings.

7 (1) The Commission member appointed by the Lieutenant Governor
8 shall call the first meeting of the Commission, to occur on or before
9 September 1, 2014.

10 (2) The Commission shall select a chair from among its members at the
11 first meeting. At any subsequent meeting at which a majority of the members
12 has been newly appointed since the last meeting of the Commission, the
13 Commission shall select a chair.

14 (3)(A) A majority of the members of the Commission shall be physically
15 present at the same location to constitute a quorum.

16 (B) A member may vote only if physically present at the meeting
17 location.

18 (C) Action shall be taken only if there is both a quorum and a
19 majority vote of the members physically present and voting.

1 (e) Reimbursement.

2 (1) For attendance at meetings during adjournment of the General
3 Assembly, legislative members of the Commission shall be entitled to per diem
4 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

5 (2) Other members of the Commission who are not employees of the
6 State of Vermont and who are not otherwise compensated or reimbursed for
7 their attendance shall be entitled to per diem compensation and reimbursement
8 of expenses pursuant to 32 V.S.A. § 1010.

9 § 1403. POWERS, DUTIES, AND ENFORCEMENT

10 (a) Powers and duties. The Vermont Ethics Commission shall:

11 (1) receive and investigate complaints of violations of 2 V.S.A.
12 chapter 5 and this chapter;

13 (2) investigate violations of 2 V.S.A. chapter 5 and this chapter in the
14 absence of a complaint if the Commission determines that a reasonable basis
15 exists to do so;

16 (3) issue subpoenas and administer oaths;

17 (4) take depositions;

18 (5) conduct hearings;

19 (6) adopt rules governing the investigatory and hearing process and
20 other matters as necessary to carry out its duties;

21 (7) take action pursuant to subsection (b) of this section;

1 (8) grant waivers pursuant to subdivision 1401(c)(2)(C) of this chapter;

2 (9) issue financial disclosure forms, in a form the Commission shall

3 determine, pursuant to section 1405 of this chapter;

4 (10) educate and inform the general public about the Commission's

5 mission and matters affecting ethics and government in Vermont;

6 (11) conduct research and study issues affecting ethics and government

7 in Vermont and issue reports as the Commission deems necessary;

8 (12) maintain an office, hire employees, and enter into contracts as

9 necessary to carry out its duties; and

10 (13) acquire on a contractual or other basis legal, technical,

11 investigatory, or other expertise and support services as necessary to carry out

12 its duties.

13 (b) Enforcement. The Commission shall investigate violations of 2 V.S.A.

14 chapter 5 or this chapter and:

15 (1) upon a determination that there are no reasonable grounds to believe

16 that a violation of 2 V.S.A. chapter 5 or this chapter has occurred, the

17 Commission shall dismiss the complaint;

18 (2) upon a determination that there are reasonable grounds to believe

19 that a violation of 2 V.S.A. chapter 5 or this chapter has occurred, the

20 Commission may:

21 (A) issue a confidential or public reprimand;

1 (B) impose a civil penalty of up to \$10,000.00 per violation;

2 (C) adopt and enforce consent orders approving any settlement

3 agreed to and submitted by a respondent and the Commission;

4 (D) bring an action seeking any of the following:

5 (i) temporary or permanent injunctive relief;

6 (ii) costs and reasonable attorney's fees associated with the

7 investigation and enforcement of actions;

8 (iii) enforcement of consent orders and civil penalties imposed

9 under this chapter;

10 (iv) vacation of any action in which an elected or appointed officer

11 participated in violation of section 1401 of this chapter; and

12 (v) other appropriate relief.

13 (c) Venue. An action under subsection (b) of this section shall be brought

14 in the Superior Court of the county in which the violation is alleged to have

15 occurred, or in Washington County.

16 § 1404. CONFIDENTIALITY

17 (a) Records kept by the Vermont Ethics Commission are exempt from

18 public inspection and copying under the Public Records Act and shall not be

19 released, except for records of an investigation that results in a determination

20 that there are reasonable grounds to believe that a violation of 2 V.S.A.

21 chapter 5 or this chapter has occurred and financial disclosure forms.

1 (b) A person who is the subject of a complaint shall have the right to
2 inspect and copy all information in the possession of the Commission
3 pertaining to him or her, except investigatory files which have not resulted in a
4 determination that there are reasonable grounds to believe that a violation has
5 occurred and attorney work product.

6 § 1456. FINANCIAL DISCLOSURE FORM

7 (a) Elected officials and appointed officials who earn \$30,000.00 or more
8 per year shall file a financial disclosure form as prescribed by the Vermont
9 Ethics Commission.

10 (b) The financial disclosure form shall be in a form that the Commission
11 shall determine, and shall include:

12 (1) the filer's name, business address, business telephone number, and
13 home address;

14 (2) the title of the filer's public position and any other occupations of the
15 filer and the filer's spouse;

16 (3) the following information for the preceding fiscal year:

17 (A) positions held by the filer or the filer's spouse in any business,
18 partnership, business corporation, or nonprofit corporation from which the filer
19 or filer's spouse received compensation, and the name of that business,
20 partnership, or corporation;

1 (B) all businesses in which the filer or the filer's spouse held an
2 interest of at least \$5,000.00 at fair market value or at least a five percent
3 ownership interest;

4 (C) investments or securities in which the filer or the filer's spouse
5 had an interest of at least \$5,000.00 at fair market value or at least a five
6 percent ownership interest;

7 (D) all real property in which the filer or the filer's spouse held an
8 interest of at least \$5,000.00;

9 (E) gross income, as that term is defined under the Internal Revenue
10 Code, of the filer and the filer's spouse;

11 (F) all positions of a fiduciary nature in a business; and

12 (G) any other information that the Commission deems appropriate.

13 (c) The form shall contain a written declaration that it is made under the
14 penalties of perjury and shall be signed by the filer.

15 § 1406. FAILURE TO FILE

16 (a) The Vermont Ethics Commission shall notify by certified mail each
17 person required to file a statement of financial interests who fails to file the
18 statement completely, in a timely manner, or in the form required.

19 (b) Any person who fails to file the statement or who fails to remedy a
20 deficiency identified within 10 days of the date the notice is mailed shall be
21 subject to the provisions of section 1403 of this chapter.

1 § 1407. REPORT

2 (a) The Commission shall issue a report on or before February 1 of each
3 year that shall include:

4 (1) the number of complaints received, investigations opened and
5 concluded, enforcement actions, court cases, and dispositions;

6 (2) the number of determinations that there were no reasonable grounds
7 to believe that a violation of 2 V.S.A. chapter 5 or this chapter had occurred;

8 (3) the number of determinations that there were reasonable grounds to
9 believe that a violation of 2 V.S.A. chapter 5 or this chapter had occurred;

10 (4) detailed summaries of all investigations that resulted in an
11 enforcement action or court case; and

12 (5) other information the Commission deems appropriate.

13 (b) The Commission may issue other reports as it deems appropriate.

14 Sec. 3. EFFECTIVE DATE

15 This act shall take effect on July 1, 2014.