



FLORIDA HOUSE OF REPRESENTATIVES

DONALD L. TUCKER, Speaker / JOHN L. RYALS, Speaker Pro Tempore
SELECT COMMITTEES

May 2, 1975

Human Rights
Elaine Gordon
Chairperson

Military & Veterans Affairs
Ray Mattox
Chairman

Standards & Conduct
Tom McPherson
Chairman

STAFF REPORT

REVISED TO COMMITTEE CHANGES

Bill: Committee Bill by the Select
Committee on Standards and
Conduct

Subject: Revision of the Standards of
Conduct for public officers
and employees

Summary and Explanation

Section 1. Legislative Employees

Amends s. 11.26- restrictions on legislative employees:
Removes the prohibition on legislative employees from urging
or opposing legislation (with restrictions) or engaging in
any business for profit.

Section 2. Legislative Intent

Adds two paragraphs to the statement of legislative intent
and declaration of policy.

Section 3. Definitions

(1) "Agency" - definition clarified and modified; not
to include offices subject to the jurisdiction of the Judicial
Qualifications Commission.

COPY

reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series 19 Carton 425

(7) "materially affected"- defined to mean a business interest or position of employment within the jurisdiction of an official's agency which will be affected in a manner or degree substantially different from which the public will be affected.

(11) "conflict" or "conflict of interest"- defined as a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(12) "corruptly"- definition taken from the Florida Criminal Code (Chapter 74-383, section 59, paragraph 6).

Section 4. Standards of Conduct

(1) "public officer"- defined to include any person elected or appointed to hold office...including any person serving on an advisory body.

(2) Conflicting Gifts-
Tightens the existing prohibition on officials accepting gifts, favors, etc. which may be given to influence voting, official actions or judgement.

(3) Doing Business With One's Agency-
a) Prohibits public officials or employees acting in an official capacity from (1) doing business with (as defined) any agency if he is a state officer, or, (2) doing business with his own agency if he is a state employee, or, (3) if he is an officer or employee of any political subdivision he cannot do business with that subdivision or any agency thereof.

(4) Unauthorized Compensation-
Prohibits public officers and employees or their spouse or minor child from accepting anything of value if given to influence a vote or other official action.

(5) Salary and Expenses-
Provides that no public officer shall be prohibited from legitimately voting on matters affecting his salary or expenses.

(6) Misuse of Public Position-
Prohibits a public officer or employee from using his official position to secure special privileges, benefits, or exemptions for himself or others.

(7) Conflicting Employment or Contractual Relationship-
The prohibition of conflicting contractual relationships

is added to this section which now only prohibits conflicting employment.

(10) Prohibits simultaneous service as an employee and a member of the governing board, commission, authority, etc. which regulates or controls the employee.

Section 5. Additional Standards for Legislators and Legislative Employees

Changes (deletes) language so that a public official may not be prohibited from voting on a matter of conflicting interest.

Section 6. Voting Conflicts

Requires a public officer to abstain from voting on a matter if it involves a conflict of interest.

Section 7. Post-employment and Officeholding Restrictions

Establishes a 2 year restriction on public officers and employees from making compensable appearances or representatives before the agency he served during his public service.

Section 8. Penalties

Establishes penalties which may be imposed upon public officers and employees in addition to criminal penalties for violation of this part.

(1) Penalties for public officers:

- | | |
|------------------------|--------------------------------|
| 1. impeachment | 5. forfeiture of salary |
| 2. removal | 6. up to \$5,000 civil penalty |
| 3. suspension | 7. restitution of pecuniary |
| 4. reduction in salary | benefits |

Penalty for candidates:

Disqualification from the ballot

(2) Designates the Attorney General to bring a civil action when recommended by the Commission.

(4) Violations of this part shall constitute malfeasance, misfeasance, and neglect of duty according to Article IV, Section 7, of the State Constitution.

(5) Empowers the Governor or the Senate to remove from office any municipal officer found in violation of this part by the commission. Reinstatement or the appointment of a successor are also provided for.

(6) Violations of confidentiality by anyone in connection with the commission's preliminary investigation shall be a misdemeanor of the first degree.

Section 9. Remedies

(1) Any contract executed in violation of this part is voidable.

Section 10. Ex parte Communications

(1) Prohibits the intentional receipt or encouragement of an ex parte communication involving a pending matter before an adversarial proceeding.

(2) Requires that if any ex parte communication is received by anyone, it shall be placed on the record in full. Provides the right to rebuttal by any party to the communication.

Section 11. Technical recoding to conform law to Chapter 74-177, Laws of Florida.

Section 12. Repeals S. 112.323-unnecessary language

Section 13. Provides a "grandfather clause" for the provisions of paragraph ~~(10)~~ of section 4 of the bill. (Allows members presently employed by an entity and serving on the governing board or authority to serve out their present term.

Section 14. Severability clause

COPY

Opening Remarks to Standards and Conduct Committee
Re Conflicts of Interest Legislation
By John A. Grant, Jr.

reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series 19 Carton 425

The conflicts of interest legislation deals with the very hard and principle function and purpose of the State Commission on Ethics. Not only has the existing conflicts bill passed by the last session of the legislature created a Code of Ethics for all state officers and public employees, but also, and perhaps more significantly, this legislation has created among public officials an air of ethical consciousness.

The Ethics Commission serves as the enforcement agency for financial disclosure and this, in my opinion, is the least significant of its contributions to state government. The rendering of official and non-official advisory opinions with receiving, hearing and determining of official complaints and the responding to hundreds of non-official inquiries during the past year marks the true significance of this commission. During the past year the Ethics Commission has rendered 192 official advisory opinions and more are now in process. We have received and either disposed of or are investigating more official complaints. Additionally perhaps in excess of 1,000 non-official inquiries have been responded to from across the state thus alleviating the necessity of filing requests for official advisory opinions.

All of this has occurred under the existing standards bill; however, experience of the past year has demonstrated several areas of question and outright conflict in the existing legislation. In addition several areas of conduct which should be included are in fact not included. Accordingly it is our desire to in essence put

more teeth into the present bill not so much for the purpose of making public office more difficult or burdensome but rather in the interest of restoring public confidence and for the purpose of setting forth the guidelines under which the State Commission on Ethics can serve as a sounding board forum for the determination of what is ethical public conduct.

Particularly at this time when the confidence level between the government and its citizens has reached a credibility gap of significant proportions, we feel it imperative to significantly strengthen the conflicts legislation. This will not be the sole solution to the restoration of public confidence but it will be a significant step forward.

The proposed legislation drafted by the Commission is significant in that it is specific enough to be enforceable but general enough not to be unduly burdensome on public officeholders. We believe that public office, whether elective or appointive, is a privilege and that when one exercises such a privilege he must clothe himself in such a way as to remove all doubt or suspicion regarding carrying out the duties of his office.

LEGISLATIVE SUMMARY

Revises and imposes certain additional employment restrictions on legislative employees. Prohibits any such employee from revealing certain information to any person outside the area of his direct responsibility or from engaging in any activity which seeks to influence any legislative action outside the scope of his specific employment. Requires public officers and employees to conduct their affairs so as to avoid even the impression of corruptibility or conflict of interest.

Expands the definition of "agency" to include regional entities, political subdivisions, and public schools, community colleges, and state universities. Establishes standards of conduct for public officers and employees relating to conflicting gifts, doing business with one's agency, unauthorized compensation, salary and expenses, misuse of public position, conflicting employment or contractual relationship, disclosure or use of information not generally available to the public, disclosure of specified interests, and employees holding office. Deletes provisions relating to ownership interests in business entities.

Provides additional standards of conduct for legislators and legislative employees, including a prohibition against any employee being otherwise employed without the written consent of the presiding officer of the house by which he is employed.

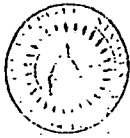
Requires public officers to abstain from voting on matters when there is a conflict of interest. Requires any public officer so abstaining to file with the Commission on Ethics a statement explaining the conflict. Imposes certain post-employment and post-officeholding restrictions on public officers and employees. Specifies an expanded and more detailed list of penalties which may be imposed against public officers and employees for violations of the standards of conduct.

Provides that the prohibition against a public employee holding office does not apply to any person holding office on the effective date of the act. Requires such a person to surrender his conflicting employment prior to seeking reelection or accepting reappointment to office.

Deletes the provision that the conduct of legislators and legislative employees is to be governed by the code of ethics of the respective house and by those parts of the standards of conduct which are applicable to legislators.

C O P Y

reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series 19 Carton 425



FLORIDA HOUSE OF REPRESENTATIVES

DONALD L. TUCKER, Speaker JOHN L. RYALS, Speaker Pro Tempore
SELECT COMMITTEES

May 30, 1975

Standards & Conduct
Tom McPherson
Chairman

STAFF REPORT

Bill: HB 2099 (as passed by House)
Sponsor: House Select Committee on Standards and Conduct and Representative McPherson and others
Subject: Revision of the Standards of Conduct for public officers and employees

Summary and Explanation

Section 1. Legislative Employees

Amends s. 11.26 - restrictions on legislative employees:
Removes the prohibition on legislative employees from urging or opposing legislation (with restrictions) or engaging in any business for profit.

Section 2. Legislative Intent

Adds paragraph to the statement of legislative intent and declaration of policy.

Section 3. Definitions

- (1) "Agency" - definition clarified and modified

(7) "materially affected"- defined to mean a business interest or position of employment within the jurisdiction of an official's agency which will be affected in a manner or degree substantially different from which the public will be affected.

(11) "conflict" or "conflict of interest"- defined as a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(12) "corruptly"- definition taken from the Florida Criminal Code (Chapter 74-383, section 59, paragraph 6).

Section 4. Standards of Conduct

(1) "public officer"- defined to include any person elected or appointed to hold office...including any person serving on an advisory body.

(2) Conflicting Gifts-
Tightens the existing prohibition on officials accepting gifts, favors, etc. which may be given to influence voting, official actions or judgement.

(3) Doing Business With One's Agency-
a) Prohibits public officials or employees acting in an official capacity from (1) doing business with (as defined) a state agency if he is a state officer, or, (2) doing business with his own agency if he is a state employee, or, (3) if he is an officer or employee of any political subdivision he cannot do business with that subdivision or any agency thereof.

(4) Unauthorized Compensation-
Prohibits public officers and employees or their spouse or minor child from accepting anything of value if given to influence a vote or other official action.

(5) Salary and Expenses-
Provides that no public officer shall be prohibited from legitimately voting on matters affecting his salary or expenses.

(6) Misuse of Public Position-
Prohibits a public officer or employee from using his official position to secure special privileges, benefits, or exemptions for himself or others.

(7) Conflicting Employment or Contractual Relationship-
The prohibition of conflicting contractual relationships

is added to this section which now only prohibits conflicting employment.

(10) Prohibits simultaneous service as an employee and a member of the governing board, commission, authority, etc. which regulates or controls the employee.

Section 5. Additional Standards for Legislators and Legislative Employees

Rewording to conform to Section 6 and other sections.

Section 6. Voting Conflicts

No substantive change - relocated from other section

Section 7. Penalties

Establishes penalties which may be imposed upon public officers and employees in addition to criminal penalties for violation of this part.

(1) Penalties for public officers:

- | | |
|------------------------|--------------------------------------|
| 1. impeachment | 5. forfeiture of salary |
| 2. removal | 6. up to \$5,000 civil penalty |
| 3. suspension | 7. restitution of pecuniary benefits |
| 4. reduction in salary | |

Penalties for public employees:

- | | |
|------------------------|--------------------------------------|
| 1. dismissal | 5. forfeiture of salary |
| 2. suspension | 6. up to \$5,000 civil penalty |
| 3. demotion | 7. restitution of pecuniary benefits |
| 4. reduction in salary | |

Penalty for candidates:

Disqualification from the ballot

(2) Designates the Attorney General to bring a civil action when recommended by the Commission

(4) Violations of this part shall constitute malfeasance, misfeasance, and neglect of duty according to Article IV, Section 7, of the State Constitution.

(5) Empowers the Governor or the Senate to remove from office any municipal officer found in violation of this part by the commission. Reinstatement or the appointment of a successor are also provided for.

(6) Violations of confidentiality by anyone in connection with the commission's preliminary investigation shall be a misdemeanor of the first degree.

Section 8. Remedies

(1) Any contract executed in violation of this part is voidable.

Section 9. Technical recoding to conform law to Chapter 74-177, Laws of Florida.

Section 10. Repeals S. 112.323-unnecessary language

Section 11. Provides a "grandfather clause" for the provisions of paragraph (10) of section 4 of the bill. (Allows members presently employed by an entity and serving on the governing board or authority to serve out their present term.)

Section 12. Severability clause



FLORIDA HOUSE OF REPRESENTATIVES

DONALD L. TUCKER, Speaker / JOHN L. RYALS, Speaker Pro Tempore
Select Committee on Standards and Conduct

Tom McPherson
Chairman

June 13, 1975

A.M. "Tony" Fontana
Vice Chairman

STAFF REPORT

The following report summarizes and compares to existing law the major substantive changes made in Part III, Chapter 112, Florida Statutes, 1974 Supplement, by the 1975 Legislature.

Three major bills were passed by the Legislature in the areas of financial disclosure, standards of conduct for public officers and employees, and powers and procedures of the Commission on Ethics:

- I CS/HB 660 by the House Select Committee on Standards and Conduct and Representatives Tucker and others. This is a revision of the financial disclosure requirements for public officers and employees. (effective date - 1/1/76) Approved by Governor - Chapter 75-196.
- II HB 2099 by the House Select Committee on Standards and Conduct and Representatives McPherson and others. This is a revision and clarification of the Standards of Conduct for public officers and employees. (effective date - 10/1/75) Approved by Governor - Chapter 75-208.
- III CS/HB 1100 by Representative Tucker. This revises and improves the powers and procedures of the Commission on Ethics. (effective date - 7/1/75) Approved by Governor - Chapter 75-199.

I CS/HB 660 - FINANCIAL DISCLOSURE

(1) Definition changes and extension of coverage to certain public officials:

- (a) "Advisory Body" - Definition added to clarify statutes. Advisory board members are subject to financial disclosure if the board's budget or appropriation is greater than 1% of the budget of each agency it serves or exceeds \$100,000, and if the power of the board includes final determination or adjudication of matters involving personal or property rights or obligations.
- (b) The following new "local officers" must file a financial disclosure statement:
 - (1) Clerk of the County Court
 - (2) County or City Water Resources Coordinator
 - (3) County or City Pollution Control Director
 - (4) County or City Environmental Control Director
 - (5) City Administrator with power to grant or deny a land development permit
 - (6) Fire Chief
 - (7) City or Town Clerk
- (c) The following new "Specified Employees" must file a financial disclosure statement:
 - (1) Public Counsel
 - (2) Assistant Public Defender
 - (3) Full time state employee serving as Counsel or Assistant Counsel to any state agency
 - (4) Each Appointed Secretary, Assistant Secretary, Deputy Secretary, Executive Director, Assistant Executive Director or Deputy Executive Director of each state commission and council
 - (5) The Assistant Division Director, Deputy Director and Assistant Bureau Chief of any state department
 - (6) Business Managers, Finance and Accounting Directors, Personnel Officers and Grants Coordinators for any state agency
 - (7) The Auditor General
 - (8) The Sergeant-At-Arms for the House and Senate and Clerk of the House and Secretary of the Senate
 - (9) The Executive Director of the Joint Legislative Management Committee
 - (10) The Director of Statutory Revision
 - (11) The Staff Director of each committee of the Legislature
 - (12) Each employee of the Commission on Ethics
 - (13) Full time state employees who accept consulting services, if the compensation in the aggregate exceeds \$200

- (d) The following new "State Officers" must file a financial disclosure statement:
- (1) Any person appointed to fill a vacancy of any elected state office or of the office of U. S. Senate or House of Representatives. (Present law requires disclosure of officials actually elected to office.)
 - (2) Vice-Chancellor of the State University System.

- (2) The statement of Financial Interests for state officers, specified employees and local officers shall include the following information:

<u>New Law</u>	<u>Old Law</u>
<p>(a) A list of all sources of income exceeding 5% of the person's gross income during the disclosure period. (excludes disclosure of public salary and a business partner's sources of income)</p>	<p>A list of all sources of income constituting 10% or more of the person's gross income during the disclosure period. (excluded dividends or interest, moneys received from guardianship, alimony, child support, retirement or disability compensation and compensation derived from government service)</p>
<p>(b) A list of all sources of income to a business entity in excess of 10% of the gross income of a business entity in which the person held an interest and received in excess of 10% of his gross income during the disclosure period, and which exceeds \$1,500.</p>	<p>A list of all sources of income to a business entity in excess of 15% of the gross income of a business entity in which the person held an interest and received in excess of 15% of his gross income during the disclosure period, and which exceeds \$1,500. (reworded for comparison)</p>
<p>(c) The location or description of real property in this state (except for residences and vacation homes) where the person has a direct or indirect ownership in excess of 5% of the property value; and a description of intangible personal property</p>	<p>A list of the total assets of each reporting person excluding any asset equal to or less than 15% of the total; any real property not situate in Florida and the personal residence and recreational or vacation homes of the</p>

worth in excess of 10% of such person's total assets. (Indirect ownership here does not include spouse or minor child ownership.)

person shall be excluded from the list.

- (d) A list of all persons or entities from whom a gift in excess of \$100 was received but not to include: gifts from immediate family, gifts by bequest or devise, campaign contributions reported by law, or gifts disclosed pursuant to s. 111.011.

(No gift disclosure provision)

A preferential rate of interest on a debt (which rate is substantially below the customary rate at the time) shall be reported as a gift in an amount equal to the difference between the preferential and customary rate.

Any debt on which a preferential rate of interest substantially below the customary rate at the time.

- (e) Every debt which in sum equals more than the reporting person's net worth.

(Same requirement - new law reworded)

- (f) A report of all clients represented for a fee or commission before agencies at his level of government - to include those representations made by any partner or associate of the professional firm of which he is a member and of which he has actual knowledge.

(Same language - new law reworded)

- (3) Filing requirements:

- | <u>New Law</u> | <u>Old Law</u> |
|---|---|
| <p>(a) Candidates must file statement of financial interests together with and at the same time he files qualifying papers.</p> | <p>Candidates must file statement of financial interests on the tenth day after the last day to qualify as a candidate.</p> |

- | | |
|---|--|
| <p>(b) Each person required to file a statement of financial interests shall do so by July 15 of each year.</p> | <p>Each person required to file a statement of financial interests shall do so by May 15 of each year.</p> |
|---|--|

(4) Effective date of this law: January 1, 1976.

II HB 2099 - STANDARDS OF CONDUCT FOR PUBLIC OFFICERS AND EMPLOYEES

This revision of the Standards of Conduct for public officials primarily clarifies, recodifies, and tightens up the present restrictions on unethical conduct while in public service.

The major change of this act is the addition of administrative and civil penalties and guidelines for their implementation and enforcement.

(1) Legislative Employees

Amends s. 11.26 - restrictions on legislative employees: Removes the prohibition on legislative employees from urging or opposing legislation, disclosing certain information, or engaging in any business for profit.

(2) New Terms Defined

(a) "Materially Affected" - defined to mean an interest in real property, a business interest, position of employment or source of income within the jurisdiction of an official's agency which will be affected in a manner or degree substantially different from that which the public or a certain class will be affected.

(b) "Conflict" or "conflict of interest" - defined as "a situation in which regard for a private interest tends to lead to disregard of a public duty or interest."

(c) "Corruptly" - defined as that "done with a wrongful intent and for the purpose of obtaining or compensating or receiving compensation for any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his public duties." (def. taken from the Fla. Criminal Code, ch. 74-383, s. 59, paragraph 6)

(3) Standards of Conduct

(a) Conflicting Gifts - Tightens the existing prohibition on officials accepting gifts, favors, etc. which may be given to influence voting, official actions or judgment.

(b) Doing Business with One's Agency -

- (1) Prohibits any agency employee or public officer from acting in an official capacity as a purchasing agent and directly or indirectly purchasing, renting, or leasing any realty, goods or services from a business in which he or a member of his immediate family has a material interest.
- (2) Prohibits public officials or employees acting in an official capacity from (a) doing business with (as defined) a state agency if he is a state officer, or, (b) doing business with his own agency if he is a state employee, or, (c) if he is an officer or employee of any political subdivision he cannot do business with that subdivision or any agency thereof. (Existing law provides that: "No public officer or employee of an agency shall own a material interest in any business entity doing business with the agency of which he is an officer or employee, except in those cases when the business is contracted with full public competition and award is made to the lowest or best bidder or to a consultant in accordance with Chapter 287.055, Florida Statutes.")

(c) Unauthorized Compensation -

Prohibits public officers and employees or their spouse or minor child from accepting anything of value if given to influence a vote or other official action.

(d) Salary and Expenses -

Provides that no public officer shall be prohibited from legitimately voting on matters affecting his salary or expenses.

(e) Misuse of Public Position -

Prohibits a public officer or employee from using his official position to secure special privileges, benefits, or exemptions for himself or others.

(f) Conflicting Employment or Contractual Relationship -

The prohibition of conflicting contractual relationships is added to this section which now only prohibits conflicting employment.

(g) Prohibits simultaneous service as an employee and

a member of the governing board, commission, authority, etc. which regulates or controls the employee. (Provides a grandfather clause for those presently in this situation.)

- (h) Prohibits officers, directors or administrators of professional or occupational associations from serving as a member of a state examining or licensing board for the profession or occupation.

(4) Penalties and Remedies

- (a) Establishes penalties which may be imposed upon public officers and employees in addition to criminal penalties for violation of this part.

Penalties for public officers:

1. Impeachment
2. Removal from office
3. Suspension from office
4. Reduction in salary
5. Partial forfeiture of salary
6. Up to \$5,000 civil penalty
7. Restitution of pecuniary benefits

Penalties for public employees:

1. Dismissal
2. Suspension
3. Demotion
4. Reduction in salary
5. Partial forfeiture of salary
6. Up to \$5,000 civil penalty
7. Restitution of pecuniary benefits

Penalty for candidates:

Disqualification from the ballot

- (b) Designates the Attorney General to bring a civil action when recommended by the Commission.
- (c) Violations of this part shall constitute malfeasance, misfeasance, and neglect of duty according to Article IV, Section 7, of the State Constitution.
- (d) Empowers the Governor or the Senate to remove from office any municipal officer found in violation of this part by the commission. Reinstatement or the appointment of a successor are also provided for.
- (e) Violations of confidentiality by anyone involved with the commission's preliminary investigation shall be a misdemeanor of the first degree.
- (f) If the commission determines that a complaint has been filed with malicious intent to injure the reputation of an officer or employee and that the

complaint is frivolous, the complainant shall be liable for costs plus reasonable attorney's fees incurred by the person complained against.

- (g) Any contract executed in violation of this part is voidable.

(The penalty provision of present law provides that: "Intentional violation of any provision of this part by any officer, employee or candidate shall constitute grounds for dismissal from employment, removal from office, or removal from the ballot.")

- (5) Effective date of this law: October 1, 1975

III CS/HB 1100 - POWERS AND PROCEDURES OF THE COMMISSION ON ETHICS

(1) Commission membership and terms

- (a) Changes number of members appointed by Governor from 5 to 4. (So that no single official will appoint a majority of the Commission). One member appointed by the Governor must be a former city or county official.
- (b) Provides for the appointment of one member by the Chief Justice of the Supreme Court - appointee must be a retired circuit or appellate judge.
- (c) Neither the Speaker of the House nor the President of the Senate shall appoint more than one member from the same political party.
- (d) Limits members of Commission to two full terms in succession.
- (e) Members may be removed by majority vote of the Governor, Speaker, President and Chief Justice.

(2) Commission duties and powers

- (a) Expands Commission's authority to investigate facts and parties materially related to the complaint at issue.
- (b) Expands and clarifies the Commission's power to subpoena witnesses, compel their compliance, etc.
- (c) Allows the Governor to initiate judicial proceedings, upon recommendation of the Commission, against any executive or administrative state, county, or

municipal officer to enforce compliance with this part pursuant to Section 1 (b) of Article IV of the State Constitution.

(3) Complaint procedure

- (a) The Commission shall conduct a preliminary investigation of all complaints to determine if there is probable cause to believe that a violation has occurred. All records and proceedings of this investigation shall be confidential, until the alleged violator requests that the investigation be a matter of public record, or until the investigation is completed. (The investigation by the Ethics Commission is presently a matter of public record.) The Commission shall dismiss a complaint if it finds no probable cause to believe there has been a violation. (Present law does not allow the Commission to conduct this preliminary investigation for probable cause. This change permits the Commission to dismiss all complaints which are frivolous or cannot be substantiated.)
- (b) (1) A finding of probable cause to believe there has been a violation by an impeachable officer or a member of the Legislature shall be forwarded to the President of the Senate or the Speaker of the House - whichever is applicable.
- (2) The appropriate legislative committee shall complete its final action within 90 days and report such to the Commission.
- (3) The legislative committee may refer the complaint back to the Commission if the committee feels it cannot or should not investigate the complaint.
- (4) The committee may request that the Commission recommend a penalty if a violation is determined.
- (c) The Commission shall conduct a complete investigation and then submit a recommendation of appropriate action for any other state or local officer and employee to the proper disciplinary official or agency (as defined). (Present law requires all complaints to be referred to the appropriate official or agency without a preliminary investigation. The Commission will now conduct all investigations against all public officials except impeachable officers and members of the

Legislature. Present law requires the complaint to be forwarded to the appropriate body or person for the investigation. This change removes the investigation from the local or agency level.)

- (d) The Commission may also report its findings to any appropriate state attorney or enforcement agency where a violation of criminal law is indicated.
- (e) A complaint against a member or employee of the Ethics Commission shall be filed with the President of the Senate and Speaker of the House who shall appoint a special joint committee to investigate the complaint and make a recommendation for final action to the Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court.

(4) Judicial review; Perjury; Filing prohibition

- (a) Any final action by the Commission shall be subject to review in a District Court of Appeal of this state.
- (b) Provides for evidence of perjury before the Commission to be turned over to the appropriate law enforcement agency for prosecution and taxation of costs.
- (c) Prohibits a complaint from being filed against a candidate for office on the day of the election or within five days immediately preceding the date of the election.

(5) Effective date of this law: July 1, 1975.