



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

APPENDIX B:

B-1: Portions of the Public Official and Employee Ethics Act Provisions to be Approved Into the Pennsylvania SIP to Address Clean Air Act Sections 128 and 110(a)(2)(E)(ii) for all NAAQS

**Bureau of Air Quality
Department of Environmental Protection**

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CHAPTER 11.
ETHICS STANDARDS AND FINANCIAL DISCLOSURE

[REDACTED]

Enactment. Chapter 11 was added October 15, 1998, P.L.729, No.93, effective in 60 days.

[REDACTED]

§ 1101. Short title of chapter.
This chapter shall be known and may be cited as the Public Official and Employee Ethics Act.

§ 1102. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

[REDACTED]

"Authority of office or employment." The actual power provided by law, the exercise of which is necessary to the performance of duties and responsibilities unique to a particular public office or position of public employment.

"Business." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

"Business with which he is associated." Any business in which the person or a member of the person's immediate family is a director, officer, owner, employee or has a financial interest.

[REDACTED]

"Commission." The State Ethics Commission.

"Confidential information." Information not obtainable from

reviewing a public document or from making inquiry to a publicly available source of information.

"Conflict" or "conflict of interest." Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

"Contract." An agreement or arrangement for the acquisition, use or disposal by the Commonwealth or a political subdivision of consulting or other services or of supplies, materials, equipment, land or other personal or real property. The term shall not mean an agreement or arrangement between the State or political subdivision as one party and a public official or public employee as the other party, concerning his expense, reimbursement, salary, wage, retirement or other benefit, tenure or other matters in consideration of his current public employment with the Commonwealth or a political subdivision.

"De minimis economic impact." An economic consequence which has an insignificant effect.

[REDACTED]

"Financial interest." Any financial interest in a legal entity engaged in business for profit which comprises more than 5% of the equity of the business or more than 5% of the assets of the economic interest in indebtedness.

[REDACTED]

"Gift." As defined in section 13A03 (relating to definitions).

"Governmental body." Any department, authority, commission, committee, council, board, bureau, division, service, office, officer, administration, legislative body or other establishment in the executive, legislative or judicial branch of a state, a nation or a political subdivision thereof or any agency

performing a governmental function.

[REDACTED]

"Hospitality." As defined in section 13A03 (relating to definitions).

"Immediate family." A parent, spouse, child, brother or sister.

"Income." Any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional corporation, partnership or other entity resulting from termination or withdrawal therefrom upon assumption of public office or employment or any other form of recompense or any combination thereof. The term refers to gross income and includes prize winnings and tax-exempt income. The term does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children.

"Indirect interest in real estate." Any business entity the assets of which are 80% or more in real property.

[REDACTED]

"Nonministerial actions." An action in which the person exercises his own judgment as to the desirability of the action taken.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Person." A business, governmental body, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Political subdivision." Any county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.

"Public employee." Any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

The term shall not include individuals who are employed by this Commonwealth or any political subdivision thereof in teaching as distinguished from administrative duties.

"Public official." Any person elected by the public or elected or appointed by a governmental body or an appointed official in the executive, legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or any political subdivision thereof.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Solicitor." A person elected or appointed to the office of solicitor for the political subdivision.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2006 Amendment. Act 134 amended the def. of "gift" and added the def. of "hospitality."

§ 1104. Statement of financial interests required to be filed.

(a) **Public official or public employee**--Each public official of the Commonwealth shall file a statement of financial interests for the preceding calendar year with the commission no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Each public employee and public official of the Commonwealth shall file a statement of financial interests for the preceding calendar year with the department, agency, body or bureau in which he is employed or to which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Any other public employee or public official shall file a statement of financial interests with the governing authority of the political subdivision by which he is employed or within which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Persons who are full-time or part-time solicitors for political subdivisions are required to file under this section.

[REDACTED]

[REDACTED]

§ 1105. Statement of financial interests.

(a) **Form.**--The statement of financial interests filed pursuant to this chapter shall be on a form prescribed by the commission. All information requested on the statement shall be provided to the best of the knowledge, information and belief of the person required to file and shall be signed under oath or equivalent affirmation.

(b) **Required information.**--The statement shall include the following information for the prior calendar year with regard to the person required to file the statement:

- (1) Name, address and public position.
- (2) Occupation or profession.
- (3) Any direct or indirect interest in any real estate which was sold or leased to the Commonwealth, any of its agencies or political subdivisions, or purchased or leased from the Commonwealth, any of its agencies or political subdivisions, or which was the subject of any condemnation proceedings by the Commonwealth, any of its agencies or political subdivisions.
- (4) The name and address of each creditor to whom is owed in excess of \$6,500 and the interest rate thereon. However, loans or credit extended between members of the immediate family and mortgages securing real property which is the principal or secondary residence of the person filing shall not be included.
- (5) The name and address of any direct or indirect source of income totaling in the aggregate \$1,300 or more. However, this provision shall not be construed to require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.
- (6) The name and address of the source and the amount of any gift or gifts valued in the aggregate at \$250 or more and the circumstances of each gift. This paragraph shall not apply to a gift or gifts received from a spouse, parent, parent by marriage, sibling, child, grandchild, other family member or friend when the circumstances make it clear that the motivation for the action was a personal or family relationship. However, for the purposes of this paragraph, the term "friend" shall not include a registered lobbyist or an employee of a registered lobbyist.
- (7) The name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where such actual expenses for transportation and lodging or hospitality exceed \$650 in an aggregate amount per year. This paragraph shall not apply to expenses reimbursed by a governmental body or to expenses reimbursed by an organization or association of

public officials or employees of political subdivisions which the public official or employee serves in an official capacity.

(8) Any office, directorship or employment of any nature whatsoever in any business entity.

(9) Any financial interest in any legal entity engaged in business for profit.

(10) The identity of any financial interest in a business with which the reporting person is or has been associated in the preceding calendar year which has been transferred to a member of the reporting person's immediate family.

(c) Reporting amounts.--Except where an amount is required to be reported pursuant to subsection (b)(6) and (7), the statement of financial interests need not include specific amounts for the items required to be listed.

(d) Cost-of-living adjustments.--On a biennial basis the commission shall review the dollar amounts set forth in this section and may increase these amounts to such rates as are deemed reasonable for assuring appropriate disclosure. The commission shall publish any such adjusted threshold amounts in the Pennsylvania Bulletin.

(Nov. 1, 2006, P.L.1213, No.134, eff. Jan. 1, 2007)

2006 Amendment. Act 134 amended subsec. (b)(7).

[REDACTED]

§ 1109. Penalties.

[REDACTED]

(b) **Financial interests statement violation.**--Any person who violates the provisions of section [REDACTED] 1104 (relating to statement of financial interests required to be filed) or 1105(a) (relating to statement of financial interests) commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both.

(c) **Treble damages.**--Any person who obtains financial gain from violating any provision of this chapter, in addition to any other penalty provided by law, shall pay a sum of money equal to three times the amount of the financial gain resulting from such violation into the State Treasury or the treasury of the political subdivision. Treble damages shall not be assessed against a person who acted in good faith reliance on the advice of legal counsel.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(g) **Reliance on solicitor's opinion**--A public official of a political subdivision who acts in good faith reliance on a written, nonconfidential opinion of the solicitor of the political subdivision or upon an opinion of the solicitor of the political subdivision, publicly stated at an open meeting of the political subdivision and recorded in the official minutes of the meeting, shall not be subject to the penalties provided for in subsections (a) and (b) nor for the treble damages provided for in subsection (c). However, this subsection shall not apply in situations where the solicitor's opinion has been rendered under duress or where the parties seeking and rendering the solicitor's opinion have colluded to purposefully commit a violation of this chapter.

[REDACTED]

[REDACTED]