

2014 -- S 2840

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- CODE OF ETHICS

Introduced By: Senators McCaffrey, Paiva Weed, Conley, Goodwin, and Lombardi

Date Introduced: March 27, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 36-14-8 of the General Laws in Chapter 36-14 entitled "Code of  
2 Ethics" is hereby amended to read as follows:

3 **36-14-8. Rhode Island ethics commission -- Establishment -- Members -- Vacancies -**  
4 **- Quorum -- Compensation and quarters. --** (a) There is hereby established an independent and  
5 nonpartisan Rhode Island ethics commission composed of ~~nine (9)~~ eleven (11) members  
6 appointed by the governor with the advice and consent of the senate. The president of the senate,  
7 the minority leader of the senate, the speaker of the house of representatives, the majority leader  
8 of the house of representatives, and the minority leader of the house of representatives shall,  
9 within twenty (20) days of July 21, 1992, each submit to the governor a list of names of not fewer  
10 than three (3), but not more than at least five (5) individuals. The governor shall, within forty (40)  
11 days of July 21, 1992, appoint one individual from each of the lists so submitted and four (4)  
12 individuals without regard to the lists submitted by the legislative leaders. The senate majority  
13 leader shall, on or before the first Tuesday in February in the year 2015, submit to the governor a  
14 list of names of not fewer than three (3), but not more than five (5) individuals. The governor  
15 shall, within thirty (30) days, nominate one individual from the list so submitted and shall  
16 nominate one individual without regard to said list.

17 (b) Members of the commission shall serve for terms of five (5) years, except that, of the  
18 members first appointed:

19 (1) The individual appointed from the list submitted by the majority leader of the house

1 of representatives shall serve for one year;

2 (2) The ~~individuals~~ individual appointed from the ~~lists~~ list submitted by the minority  
3 leader of the senate and one of the individuals appointed by the governor without regard to the  
4 lists submitted by the legislative leaders shall serve for two (2) years;

5 (3) The individual appointed from the list submitted by the minority leader of the house  
6 of representatives and one of the individuals appointed by the governor without regard to the lists  
7 submitted by the legislative leaders shall serve for three (3) years;

8 (4) The individual appointed from the list submitted by the president of the senate and  
9 one of the individuals appointed ~~from the list~~ by the governor without regard to the lists submitted  
10 by the legislative leaders ~~submitted by the minority leader of the house of representatives~~ shall  
11 serve for four (4) years; ~~and~~

12 (5) The individual appointed from the list submitted by the speaker of the house of  
13 representatives and one of the individuals appointed ~~from the list submitted by the minority leader~~  
14 ~~of the senate~~ by the governor without regard to the lists submitted by the legislative leaders shall  
15 serve for five (5) years; ~~and~~

16 (6) Each legislative leader who provides a list of nominees shall provide a statement of  
17 each nominee's qualifications to serve on the commission.

18 (c) No member shall be ~~appointed for more than one full five (5) year term~~ reappointed  
19 to the commission; provided, however, that a person initially appointed to serve two (2) years or  
20 less of a full five (5) year term, may, upon expiration of that term, be appointed to serve one full  
21 term; provided, further, that each member shall continue to serve until his or her successor is  
22 appointed and qualified; and, provided further, that if, at the time of the expiration of any  
23 member's term, that member is actively engaged in the adjudication of a complaint, he or she  
24 shall continue to serve in that capacity until the commission has completed its responsibilities  
25 with respect to that complaint.

26 (d) The governor shall, at the time of the initial appointments to the commission,  
27 designate one member to act as chairperson of the commission for a period of one year and  
28 another to act as vice chairperson of the commission for a period of one year. Thereafter, the  
29 commission shall elect a chairperson and a vice chairperson. The vice chairperson shall act as  
30 chairperson in the absence of the chairperson or in the event of a vacancy in that position.

31 (e) Notwithstanding the provisions of subsections (b) and (c) of this section, the  
32 expiration date of each five (5) year term shall be March 1. The term of each commissioner  
33 appointed before August 1, 2014 is extended to the March 1 next following the original expiration  
34 date of his or her term.

1 (f) For the appointment to the ethics commission authorities shall nominate individuals  
2 who have demonstrated the highest level of ethical standards in connection with their business,  
3 professional, occupational, financial or community commitments, and who possess the following  
4 qualifications: integrity, familiarity with governmental ethics issues, objectivity, common sense  
5 and compassion.

6 (g) To fill an expired term, the nominating authority shall submit a list of names to the  
7 governor by January 15. The governor shall post all such nominations for a period of at least  
8 fifteen (15) days in a prominent place in the state house as well as electronically on any electronic  
9 site maintained by the state and in a newspaper of statewide circulation. The governor, shall, by  
10 February 1, forward to the senate the name of any nominee chosen from the lists of the legislative  
11 nominating authorities, as well as the name of any nominee chosen directly by the governor.

12 (h) Any member of the ethics commission who shall resign prior to the end of the  
13 member's term shall give notice to the governor, the secretary of state and the nominating  
14 authority who originally nominated that member.

15 ~~(e)~~(i) Any vacancy on the commission, occurring for any reason prior to the expiration of  
16 the term, shall be filled for the unexpired term by the appointing authority in the same manner as  
17 the original appointment ~~within thirty (30) days of the vacancy occurring.~~ ; provided, however,  
18 that the appropriate nominating authority shall submit a list of names to the governor within  
19 fifteen (15) days of the vacancy occurring. The governor shall post all such nominations for a  
20 period of at least fifteen (15) days in a prominent place in the state house as well as electronically  
21 on any electronic site maintained by the state and in a newspaper of statewide circulation. The  
22 governor shall, within thirty (30) days of the vacancy occurring, forward to the senate the name of  
23 any nominee chosen from the lists of the legislative nominating authorities, as well as the name of  
24 any nominee chosen directly by the governor. If a vacancy occurs when the senate is not in  
25 session, the date of vacancy shall be considered to be the following January 1, and the procedure  
26 in this subsection shall be followed.

27 ~~(e)~~(j) No individual, while a member or employee of the commission, including any legal  
28 counsel engaged by the commission, shall:

- 29 (1) Hold or campaign for any other public office;
- 30 (2) Hold office in any political party or political committee;
- 31 (3) Participate in or contribute to any political campaign;
- 32 (4) Directly or indirectly attempt to influence any decision by a governmental body,
- 33 other than as the duly authorized representative of the commission on a matter within the
- 34 jurisdiction of the commission or be the business associate (as defined in § 36-14-2(3) of a

1 [registered lobbyist \(as defined in § 22-1-2\);](#)

2 (5) Have held elective public office or have been a candidate for elective public office  
3 for a one year period prior to appointment; [and](#)

4 (6) Have any equity interest or ownership interest in, or be employed by a business entity  
5 that derives any of its revenue or income by engaging in lobbying, as defined in chapter 22-10  
6 and chapter 42-139.

7 ~~(g)~~[\(k\)](#) The governor shall declare vacant the position on the commission of any member  
8 who takes part in activities prohibited by subsection ~~(f)~~[\(i\)](#) of this section. An individual appointed  
9 to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for  
10 the unexpired term of the member he or she succeeds, and is eligible for appointment to one full  
11 five-year term thereafter [if the unexpired term was two \(2\) years or less](#). Any vacancy occurring  
12 on the commission shall be filled ~~within thirty (30) days in the manner in which that position was~~  
13 ~~originally filled~~ [in the manner set forth in § 36-14-8\(i\)](#).

14 [\(l\) In the event that the legislative nominating authority shall fail to act within the times](#)  
15 [prescribed herein, any such right hereunder shall be forfeited and the governor shall make such](#)  
16 [nominations as is required by this section within thirty \(30\) days of the nonfiling occurring.](#)

17 [\(m\) In the event that the governor shall fail to act within the times prescribed herein, any](#)  
18 [such right hereunder shall be forfeited and the lieutenant governor shall make such nominations](#)  
19 [as are required by this section within forty-five \(45\) days of the vacancy occurring.](#)

20 [\(n\) Upon receiving the name of the nominee from the governor or the lieutenant](#)  
21 [governor, the senate shall publish within seven \(7\) days the name of the nominee in a newspaper](#)  
22 [of statewide circulation and shall post the name of the nominee in a prominent place in the state](#)  
23 [house as well as electronically on any electronic site maintained by the state, inviting public](#)  
24 [comment and designating a depository for written and oral comment to be received within fifteen](#)  
25 [\(15\) days from the date of publication of the nominee's name.](#)

26 [\(o\) The senate shall hold public hearings on the nomination and vote on the question of](#)  
27 [approving the nominee to serve on the ethics commission subject to the general laws. If the senate](#)  
28 [rejects or if it fails to approve the nominee within thirty \(30\) days after the governor or the](#)  
29 [lieutenant governor submits the name, the governor or the lieutenant governor shall nominate](#)  
30 [some other person to fill the vacancy in accordance with this chapter within fifteen \(15\) days of](#)  
31 [the rejection or failure to approve the nominee.](#)

32 [\(p\) During the time for consideration of any nominee by the senate, the senate judiciary](#)  
33 [committee shall conduct an investigation and public hearing on the qualifications of such](#)  
34 [nominee. At the public hearing, the testimony of every witness shall be taken under oath and](#)

1 stenographic records shall be taken and maintained. Further, the senate judiciary committee shall  
2 during the course of its investigation and hearing have the power upon the majority vote of the  
3 committee members present to issue witness subpoenas, subpoenas duces tecum, and orders for  
4 the production of books, accounts, papers, records, and documents which shall be signed and  
5 issued by the chairperson of the committee, or the person serving in his or her capacity. All such  
6 subpoenas and orders shall be served in the same manner as subpoenas in civil cases in the  
7 superior court are served, and witnesses so subpoenaed shall be entitled to the same fees for  
8 attendance and travel as provided for witnesses in civil cases in the superior court. If the person  
9 subpoenaed to attend before the committee fails to obey the command of the subpoena without  
10 reasonable cause, refuses to be sworn, or to be examined, or to answer a legal and pertinent  
11 question, or if any person shall refuse to produce books, accounts, papers, records, and  
12 documented material to the issue, set forth in an order duly served on him or her, without  
13 privilege or immunity, the committee by majority vote of the committee members present may  
14 cite such person and refer the record of such citation to the attorney general for prosecution.

15 (q) The superior court may, upon petition of the chairperson of the senate judiciary  
16 committee, compel compliance with any lawfully issued subpoena or order issued hereunder.

17 (r) The committee shall, for the purpose of investigating the qualifications of the  
18 nominee, be furnished with a report compiled by the state police in conjunction with the attorney  
19 general's office indicating the factual findings of the state police and attorney general's office  
20 concerning the background of the nominee, and the report shall include, but not be limited to, the  
21 following:

22 (1) Whether the nominee has ever been convicted of or pleaded guilty or nolo contendere  
23 to a misdemeanor and/or a felony in this or any other state or foreign country;

24 (2) Whether the nominee has ever had a civil or administrative judgment rendered against  
25 him or her arising out of an allegation of fraud, misrepresentation, libel, slander, professional  
26 negligence, breach of ethical or other duty, or any intentional tort in this state or any other state or  
27 foreign country; and

28 (3) A list of all political, elective, and appointive offices held or sought by candidacy by  
29 the nominee during the past five (5) years, and a list of all of the reported political contributions  
30 made by the nominee during the past five (5) years to any state or municipal official or any  
31 candidate for state or municipal office.

32 (s) The state police in conjunction with the attorney general's department shall provide in  
33 their report the names and addresses of each and every source of their information. The reports  
34 set forth in this section shall be delivered only to the chairperson and members of the senate

1 judiciary committee in addition to the nominee or nominees prior to the commencement of the  
2 public hearing. Provided, however, that if the nominee withdraws or declines the appointment  
3 prior to the public hearing then the report or reports shall be returned to the chairperson of the  
4 judiciary committee and destroyed.

5 (t) Prior to the public hearing, the nominee shall file with the senate judiciary committee  
6 and the ethics commission a financial statement complying with the requirements of this chapter.

7 (u) By consenting to nomination, the nominee does, as a matter of law, release and hold  
8 harmless any person who shall make any statement to the state police in any inquiry authorized  
9 hereunder from any claim of defamation. Any such statement shall be taken under the pains and  
10 penalty of perjury.

11 (v) Concurrent with the conduct of the inquiry required herein, the nominee shall supply  
12 to the senate judiciary committee, under oath, the information sought in § 36-14-8(r).

13 ~~(w)~~ For any action to be taken under the terms of this chapter by the full commission,  
14 five (5) members of the commission shall constitute a quorum.

15 ~~(x)~~ Commission members shall not be compensated for attendance at meetings of the  
16 commission or of any investigating committee or adjudicative panel of the commission.

17 ~~(y)~~ All departments and agencies of the state or of any city or town or political  
18 subdivision within this state shall furnish such advice or information documentary or otherwise,  
19 to the commission and its agents as is deemed necessary or desirable by the commission to  
20 facilitate the purposes of this chapter.

21 ~~(z)~~ The director of administration is hereby authorized and directed to provide  
22 suitable quarters for the commission.

23 ~~(aa)~~ When commission members act in good faith within the scope of their authority  
24 and in their official capacities they shall be afforded protection against civil liability as provided  
25 in section 9-1-31.1.

26 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- CODE OF ETHICS

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1           This act would increase from nine (9) to eleven (11) the membership of the Rhode Island  
2 ethics commission and require that appointments be made with the advice and consent of the  
3 senate. This act would also establish qualifications for appointment of members to the  
4 commission.

5           This act would take effect upon passage.

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