

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p style="text-align: center;">This space for use by IRRC RECEIVED 2000 JUN 22 AM 10: 05 REVIEW COMMISSION</p> <p style="text-align: right;">IRRC Number: <i>2128</i></p>
<p>(1) Agency State Ethics Commission</p>		
<p>(2) I.D. Number (Use Task Force No.) 63-07</p>		
<p>(3) Short Title SEC</p>		
<p>(4) PA Code Cite 51 Pa. Code Section 11.1 <u>et seq.</u></p>	<p>(5) Agency Contacts & Telephone Numbers (717) 783-1610 Primary Contact: John J. Contino, Esq., Executive Director Secondary Contact: Vincent J. Dopko, Chief Counsel</p>	
<p>(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No Yes: By the Attorney General Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <ol style="list-style-type: none"> 1. Add general and cross references to the Lobbying Disclosure Regulations which will conform to the references in those Regulations. 2. Amend the reporting thresholds for Statements of Financial Interests (SFI's) so that the Regulations will conform to higher reporting thresholds as they now appear in the Public Official and Employee Ethics Act, 65 Pa.C.S. §1105(b). 3. Add a section as to confidentiality which will incorporate the eight existing statutory exceptions to confidentiality and add two additional exceptions in conformity with judicial case law. 		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>Public Official and Employee Ethics Act, 65 Pa.C.S. §1101 <u>et seq.</u> <u>Easton Publishing Company d/b/a Express Times v. John Contino, et al., Civil Order 00-CV-983, U.S. District Court for Eastern District</u></p>		

of Pennsylvania.

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

1. The SFI reporting thresholds need to be amended to conform to the thresholds as they now exist by statute in the Public Official and Employee Ethics Act, 65 Pa.C.S. §1105(b).
2. Two exceptions to confidentiality need to be added to conform to judicial case law.
3. References to the Lobbying Disclosure Regulations are added to correspond to the references in those Regulations.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

None.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The individuals subject to the Public Official and Employee Ethics Law will benefit.

1. There should be less confusion as to reporting thresholds for SFI's and as to confidentiality application and exceptions by amending the regulations to conform with statutory and decisional law.
2. The references will not provide any detriment but will provide a benefit with corresponding references to the Lobbying Disclosure Regulations.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

None.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Public officials, public employees, candidates, and third parties who have involvement with the foregoing individuals.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

None. Since the regulations are procedural and conform to the requirements of decisional law, no such steps were taken.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

None. There are no costs associated with the regulations.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

None.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

None.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no cost considerations. There will be benefits.

1. There should be less confusion as to reporting thresholds for SFI's and as to confidentiality application and exceptions by amending the regulations to conform with statutory and decisional law.
2. The references will not provide any detriment but will provide a benefit with corresponding references to the Lobbying Disclosure Regulations.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

None. These changes are required to conform the regulations with statutory and decisional law.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

N/A.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. Since the regulations are procedural and conform to the requirements of decisional law, no such steps will be taken.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The regulations and the Ethics Act affect all public officials/employees equally; therefore no special needs of any group of persons exist which would have to be specifically addressed.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Fall, 2000.

(31) Provide the schedule for continual review of the regulation.

The agency will constantly oversee how the administrative procedure is developing and operating under the regulations and will make changes as necessary to maintain efficient operation.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

RECEIVED

2000 JUN 22 AM 10:05

LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

#2128

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General


DEPUTY ATTORNEY GENERAL

JUN 14 2000

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

State Ethics Commission
(AGENCY)

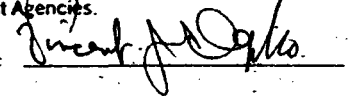
DOCUMENT/FISCAL NOTE NO. 63-07

DATE OF ADOPTION: 05/26/00

BY:


TITLE: Executive Director
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: 

05/26/00

DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

STATE ETHICS COMMISSION

**[51 PA. CODE CHS. 1-5, 7, 11, 13, 15,
17, 19, 21, 23 AND 25]**

Procedure

The State Ethics Commission (SEC) proposes to amend 51 Pa. Code as set forth in Annex A. The regulations are proposed under the authority of the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. §1101 et seq.

These regulations are proposed in accordance with section 1107(1) of the Ethics Act (65 Pa.C.S. § 1107(1)) which directs the SEC to promulgate rules and regulations necessary to carry out the provisions of the Ethics Act.

The proposed regulations implement the Ethics Act, which directs the SEC to administer the Ethics Act to public officials, public employees, candidates for public office and other persons involved in an official activity with the foregoing persons.

The proposed regulations seek to address three specific matters of concern. First, amendments are proposed to insert general or cross references to the Lobbying Disclosure Regulations to correspond with references appearing in that part. Second, the reporting thresholds in Chapter 17 are proposed to be amended in conformity with the existing statutory thresholds in section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b). Third, a new section on confidentiality is proposed to be added to Chapter 21 which includes the eight statutory exceptions to confidentiality plus two additional exceptions which are proposed.

The two additional exceptions are proposed pursuant to section 1108(k)(9) of the Ethics Act, 65 Pa.C.S. §1108(k)(9) which authorizes the SEC to promulgate

other exceptions to confidentiality as it may direct by regulation. The two exceptions are proposed so as to be in conformity with judicial precedent.

Fiscal Impact and Paperwork Requirements

These proposed regulations have no fiscal impact upon the Commonwealth.

Effective Date

The regulations will take effect upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

The effectiveness of these regulations will be reviewed by the SEC periodically. Thus no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the agency submitted a copy of these proposed regulations on May ____, 2000, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and Senate Committee on Rules and Executive Nominations. In addition to submitting the proposed regulations, the agency has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has any objection to any portion of the proposed regulations it will

notify the agency within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised prior to final publication of the regulations, by the agency, the General Assembly and the Governor.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to John J. Contino, Executive Director, or Vincent J. Dopko, Chief Counsel, State Ethics Commission, P.O. Box 11470, Room 309, Finance building, Harrisburg, PA. 17108-1470 within 30 days following publication in the *Pennsylvania Bulletin*, (717) 783-1610.

JOHN J. CONTINO,
Executive Director

Annex A

TITLE 51. PUBLIC OFFICERS

PART I. STATE ETHICS COMMISSION

CHAPTER 13. OPINIONS AND ADVICES OF COUNSEL.

**CHAPTER 17. STATEMENTS OF FINANCIAL
INTERESTS, CONTENT.**

CHAPTER 21. INVESTIGATIONS

CHAPTER 25. WRONGFUL USE OF THE ACT

CHAPTER 13. OPINIONS AND ADVICES OF COUNSEL.

* * *

§13.5. Public access.

* * *

(d) A digest and index of Commission opinions may be published and disseminated annually.

Cross References

This Chapter cited in 51 Pa. Code §39.1 (relating to Ethics Act regulations in Part 1 as to opinions and advices of counsel).

**CHAPTER 17. STATEMENTS OF FINANCIAL
INTERESTS, CONTENT.**

* * *

§17.3. Creditors.

(a) Each creditor to whom is owed in excess of \$~~50~~6500 or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §~~4~~1105(d) and §19.5 (relating to reporting threshold adjustments) shall be reported.

* * *

§17.4. Income.

(a) The name and address of a direct or indirect source of income, including employers, in the aggregate of \$1,~~0~~300 or more or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §~~4~~1105(d) and §19.5 (relating to reporting threshold adjustments) shall be reported unless the disclosure would require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.

* * *

§17.5. Gifts.

(a) The name and address of the source of a gift valued in the aggregate at \$~~2~~050 or more or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §~~4~~1105(d) and §19.5 (relating to reporting threshold adjustments) shall be reported.

* * *

§17.6. Expense reimbursement.

(a) 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 the actual expenses for transportation and lodging or hospitality exceed \$~~65~~00, or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §~~4~~1105(d) and §19.5 (relating to reporting threshold adjustments), in

the course of a single occurrence shall be reported.

* * *

§17.11. Application of Lobbying Disclosure regulations.

See, Lobbying Disclosure regulations, Chapters 31 and 35, as to the differentiation between “gift” and “transportation and lodging or hospitality received in connection with public office or employment” and the determination of such amounts for reporting.

CHAPTER 21. INVESTIGATIONS.

GENERAL

- Sec.
21.1. Complaints.
21.2. Initiation of investigation by the Commission.
21.3. Preliminary inquiries.
21.4. Frivolous complaints; complaints without probable cause, disclosure of complaints.
21.5. Conduct of investigations.
21.6. Confidentiality.

* * *

§21.6. Confidentiality.

(a) As a general rule, no person shall disclose or acknowledge, to any other person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the commission. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this chapter or Section 1108 of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1108, when the matters pertain to any of the following:

- (1) final orders of the commission as provided in 65 Pa.C.S. §1108(h);
- (2) hearings conducted in public pursuant to 65 Pa.C.S. §1108(g);
- (3) for the purpose of seeking advice of legal counsel;
- (4) filing an appeal from a commission order;
- (5) communicating with the commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the commission;
- (6) consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;
- (7) testifying under oath before a governmental body or a similar body of the United States of America;
- (8) any information, records or

proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of;

(9) the divulgence of information that third parties have legally obtained about a confidential Commission proceeding; or

(10) the divulgence by individuals who are interviewees or witnesses as to confidential Commission proceedings regarding information that was already in their possession or obtained as a result of participation in such proceedings.

RECEIVED

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

2000 JUN 22 AM 10:06

I.D. NUMBER 63-07

INDEPENDENT REGULATORY REVIEW COMMISSION

AGENCY State Ethics Commission

Type of Regulation

- Proposed regulation.
- Final regulation with notice of proposed rulemaking omitted.
- Final regulation.
- 120-day emergency certification of the Attorney General.
- 120-day emergency certification of the Governor.

Filing of Regulation

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
6/22/00	<i>J. Pedersen</i>	House Committee on <u>Judiciary</u>
6/22/00	<i>S. P. Parnas</i>	
4/22/00	<i>S. Parnas</i>	Senate Committee on _____
6/22/00	<i>S. Parnas</i>	<u>Rules & Executive Nominations</u>
6/22/00	<i>Tim Ebert</i>	Independent Regulatory Review Commission
5-26-00	<i>M. Mumment</i>	Attorney General
		Legislative Reference Bureau