

PROPOSED AMENDMENT – INDEPENDENT INVESTIGATIONS

JURISDICTION AND MEMBERSHIP OF STATE ETHICS COMMISSION	<p>The Legislative Ethics Committees (LECs) are kept intact with jurisdiction limited to hearings, findings, disposition. The State Ethics Commission (SEC) is reconstituted and would conduct investigations of all public officials, including legislators. The State Ethics Commission is to be composed of 8 members with bipartisan requirements – qualifications and disqualifications are also provided:</p> <ul style="list-style-type: none"> • 4 members appointed by the Governor (no more than two members may be from her political party); • 2 members nominated by Pres Pro Temp (one each nominated in consultation with the Majority and Minority Leaders; vetted by a public hearing); and • 2 members nominated by the Speaker (one each nominated in consultation with the Majority and Minority Leaders; vetted by a public hearing).
COMPLAINTS	<p>The SEC may receive complaints against legislators and non-legislators and may initiate complaints upon a majority vote of the total membership of the Commission. If a LEC receives a complaint (about non-technical violations of the Ethics Act) against a legislator, it must forward it to the SEC. Complaints alleging technical violations (8-13-1170 and 8-13-1372) must be forwarded to the appropriate LEC for investigation and disposition.</p>
INITIAL DETERMINATIONS	<p>If the SEC or Executive Director determines that facts are sufficient to pursue an investigation against any public official, including legislators, then an investigation must be conducted. If facts in a complaint about a legislator are NOT sufficient, then a report must be sent to the appropriate LEC to either concur or request to continue the investigation.</p>
INVESTIGATIONS	<p>The SEC may investigate legislators and non-legislators and may seek assistance from other agencies. Upon completion of an investigation, the SEC must make a finding as to whether there is probable cause.</p>
FINDINGS OF PROBABLE CAUSE	<p>- Upon completion of an investigation, if probable cause that a violation occurred is found for complaints against legislators, then the SEC must send the probable cause recommendation to the appropriate LEC for resolution. If probable cause is found for non-legislators, then the SEC will convene a formal public hearing or waive further proceedings if public official corrects the violation and determine penalties.</p> <p>-- If probable cause is found to support criminal violations against any public official, then the Commission must refer the complaint or investigation to the Attorney General.</p>
HEARINGS	<p>All hearings must be open to the public. For complaints against a legislator, the SEC's investigator or attorney handling the investigation shall present the evidence to the appropriate Legislative Ethics Committee.</p>
DISPOSITION	<p>After receiving the SEC's probable cause recommendations, the LEC shall determine findings of fact:</p> <ul style="list-style-type: none"> - If the LEC finds probable cause, it may render an advisory opinion and request respondent's compliance or convene a public hearing. - If a hearing is held and a violation is found, the LEC shall administer a public reprimand, determine a technical violation occurred, require a civil penalty, require forfeiture, recommend expulsion, or a combination of the above. - In case of a criminal violation, the LEC shall refer the matter to the Attorney General. - If no violation has been found, then the LEC shall dismiss the charges.
CONFIDENTIALITY	<p>All documents are confidential until 30 days after a finding of probable cause, unless the LEC requests a further investigation or finds probable cause, whichever occurs earlier. Complaints remain confidential if they are dismissed or if there is no finding of probable cause by the SEC.</p>
ADVISORY OPINIONS	<p>Both written formal and informal advisory opinions issued by the SEC are binding on the SEC. Note that informal advisory opinions, if relied upon in good faith, are binding in subsequent actions of the SEC.</p>