

TRUTH IN FACTS
H.3184, Ethics Reform Bill

#1 Obstructionist Argument: *This bill does not go far enough – it's not "real" ethics reform.*

Response: Not true. The components of this bill have been debated for four years, following the McMaster-Medlock Report from Jan. 2013. The State Ethics Act has gone unreformed since its inception in 1991. This bill brings comprehensive, meaningful reform in two ways: (I) Income Disclosures; and (II) Independent Investigations.

#2 Obstructionist Argument: *This bill infringes on First Amendment Right to Free Speech and Second Amendment Right to Bear Arms.*

Response: Not true. Nothing in this bill infringes on anyone's constitutional rights. In addition, note that no electioneering regulation, of any kind, is included in this bill.

I. Income Disclosures:

Phony Argument: *This bill includes too many exceptions for income disclosures, including income derived from court order, personal bank account, or mutual fund.*

Response: Not true. Some sources of income are so passive that they need not be disclosed, because the opportunity for conflict is so small – such as interest earned from a savings account or returns on retirement investments. In addition, some court ordered payments require confidentiality, such as child support or alimony payments. When the entire purpose of income disclosures is to avoid conflicts of interest, there are some types of income that simply do not benefit the public because they do not affect state business.

Phony Argument: *This bill weakens disclosure requirements relating to income from government contracts.*

Response: Not true. From the outset, this bill requires disclosure of all sources of income, including income earned from a government contract. In addition, this bill goes even farther by requiring disclosure of the value of the actual contract between the official's business and the governmental entity, thereby giving the public a greater and clearer understanding of any potential conflict of interest. *(For further explanation, see letter from Executive Director Herb Hayden.)*

Phony Argument: *This bill weakens disclosure requirements relating to purchases made by lobbyists.*

Response: Not True. This bill does not amend the provision requiring filers to disclose purchases made from lobbyists (Section 8-13-1130), which remains unchanged in this bill. Again, this bill creates a new reporting requirement for any income the filer, his immediate family, or his associated business receives from a contractual relationship with a lobbyist, lobbyist's principal, or state or local governmental entity.

Bottom-Line: South Carolina is **1 of 3 states** that does not require disclosure of private sources of income – H.3184, as written, fixes that.

II. Independent Investigations:

Phony Argument: *This bill does not create an independent investigatory process, allowing legislators to continue to police themselves.*

Response: Not true. This bill explicitly requires that all investigations of all public officials, including legislators, must be conducted by the reconstituted State Ethics Commission, an independent, bipartisan body of four gubernatorial and four legislative appointees. The Commission is the only entity authorized to conduct an investigation and to make a recommendation as to whether probable cause exists, and even if the legislative ethics committee disagrees, the Commission's report still becomes public. The dramatic increase in transparency coupled with a truly independent investigatory process makes this bill strong.

Bottom-Line: South Carolina is **1 of 6 states** whose state ethics commission does not have jurisdiction over the legislature – H.3184, as written, fixes that.

Phony Argument: *This bill allows legislators to hide behind informal advisory opinions of staff, keeping confidential official legal interpretations of staff.*

Response: Not true. Staff cannot issue official legal interpretations of state law – only official entities can do that, such as the State Ethics Commission, legislative ethics committees, or the courts. We want public officials to be proactive in seeking guidance and advice from staff to do the right thing.