

## **Summary to LAM Ethics Draft (11/5/14)**

### **PART I - Lobbyists and Lobbyist's Principals**

- Increases lobbyist/principal registration fee from \$100 to \$200.
- Lobbying reports would be due on January 10th and July 10th.

### **PART II - General Provisions**

- Member of the General Assembly could not be elected to a judicial office for 2 years after he ends legislative service or fails to file for election to the General Assembly.
- Tightens language against judicial candidate pledges
- Allows legislative ethics committees to levy an enforcement or administrative fee on a violator in order to reimburse the committee for costs associated with the investigation and hearing.

### **PART III - Ethics Committees**

- Reconstitutes State Ethics Commission:
  - 8 members - 4 appointed by the Governor, 2 nominated by the Pro Tem and 2 nominated by the Speaker. The Pro Tem and Speaker would nominate with consultation of minority and majority party leaders, and nominees must be confirmed by appropriate ethics committee.
  - Current SEC members terms end on 3/31/16. Staggered terms
  - Member may be removed by the appointing authority for cause.
- Complaints of legislative members would go to the State Ethics Commission for initial investigation. If the SEC determines there is sufficient evidence that a violation, the SEC send the case back to the appropriate legislative ethics committee for further investigation and determination of the matter. The SEC and ethics committees could be have to forward information regarding an alleged criminal violation to law enforcement.
- Hearings for the State Ethics Commission and legislative ethics committees would be open to the public.
- After the commission found probable cause, the following documents would become public record: the complaint, response, notice of hearing, the commission's findings, its final order, and exhibits introduced at the hearing cited in the order.
- Legislative ethics committees could recover the value of anything received in breach of ethical standards, order a civil penalty up to \$2,000 for each non-technical violation, and require the forfeiture of any value received from an ethical violation, in addition to current penalties the committees can administer.
- Legislative ethics committees may issue formal and informal advisory opinions. A formal opinion must be in writing and would be issued by the committee upon the approval of a majority of the members. An informal advisory opinion may be issued by ethics committee staff and must be in writing. These opinions would be binding upon the committee provided that the member relied upon it in good faith.

### **PART IV - Rules of Conduct**

- Clarifies that a public official, public member, or employee may not utilize government "time" or property for private business. However, this would not prohibit a part-time public official or public member from having incidental communications or activities related to his primary occupation or business.
- Recusal applies at all times when the matter is being considered before the body, including study committees and subcommittees.
- A public official, member, or employee soliciting additional money for assistance given in his course of employment, or a person offering money for assistance, is guilty of a criminal offense.

If the amount paid, solicited, or received is \$10,000 or less, the person is guilty of a misdemeanor; \$10,000 or more is a felony.

- A public official, member, or employee who uses confidential information in a way that would affect his economic interests is guilty of a misdemeanor if the amount is \$10,000 or less or a felony if the amount is more than \$10,000.
- Increases time prohibiting former public official, member or employee from lobbying or representing clients in matter which the former official, member or employee substantially and directly participated in from 1 year (current law) to 2 years.
- Certain conflicts of interests provisions would not apply to a public employee of an institution of high education for intellectual property that benefits the institution and the State as long as the school retains some royalty rights.
- A state public official, member, or employee could not award nor participate in any discussions regarding a contract award with the State for a business or individual with whom the public official, member, or employee, or a member of his immediate family is associated. A political subdivision public official, member, or employee could not award nor participate in any discussions regarding a contract award with that political subdivision for a business or individual with whom the public official, member, or employee, or a member of his immediate family is associated.
- Eliminates oral warning or reprimand as an option for the State Ethics Commission.
- Requires recovery of value of anything received pursuant to an ethical violation (currently "may" recover).

#### **PART V - Disclosure of Economic Interest**

- Requires the State Ethics Commission to make statements and reports filed with the commission to be electronically accessible to the public.
- Clarifies reporting requirements regarding real property.
- Requires a public official, member, or employee that receives compensation from an individual or business with governmental contracts to report the value of the contract between that individual or business and governmental entity.
- SEI would include disclosure of all sources of income received by filer of an SEI or member of filer's immediate family.
  - Also includes specific source of income received by a public official, member of the official's immediate family, or business with which the official or his immediate family is associated from: (a) contractual or financial relationship, including consulting or independent contractor work, with a lobbyist principal; (b) contractual or financial relationship, including consulting or independent contractor work, with a government entity; or (c) source regulated by governmental entity on which the official serves.
  - Also includes specific source of income received by a public member, member of his immediate family, or business with the member of or his immediate family is associated from a source directly regulated by the governmental regulatory agency on which the member serves.
  - Public improvements of more than \$200 on or adjacent to the filer's property are to be reported if the interests are actually known to the filer.
- Appropriate supervisory office would send electronic notice of obligation to report at least 30 days before filing date.

## **Definitions**

*Committee:* a person or an entity with the major purpose to support or oppose the nomination, election, or defeat of one or more candidates or a political party (or controlled by a political party).

*Contribution:* includes a gift of any kind used to pay for communications made within 45 days immediately before the election.

*Independent Expenditure:* includes expenditures incurred.

*Noncandidate committee:* a committee with the major purpose to support or the nomination, election, or defeat of one or more candidates.

*Influence the outcome of an elective office:* eliminates reference to communications within 45 days before an election.

*Ballot measure committee:* a committee with the major purpose to promote or defeat a ballot measure.

*Electioneering communication:* broadcast or mass mailing referring to a candidate within 60 days before a general election or 30 days prior to a primary.

*Independent expenditure only committee:* only makes independent expenditures and is organized for the major purpose to support or oppose a candidate for elective office.

Factors (not exclusive) for "the major purpose test":

- if organizational documents say its major purpose is to influence elections;
- if over 50% of funds spent in state in a year are used to influence elections;
- if over 50% of a committee's total funds spent in a year are used to influence elections;
- if the committee makes public statements that its major purpose is to influence elections.

## **Campaign Contributions**

- State Ethics Commission will establish a system of electronic filing which allows for reports and disclosures to be uploaded by the filer and for reports to be electronically accessible to the public.
- Would require an updated pre-election campaign report 5 days before an election of contributions of more than \$100 and expenditures to date not previously reported.
- Independent expenditure only committees would file a statement of organization with the State Ethics Commission within 5 days of expending more than \$500 during an election cycle.
- Person who makes an independent expenditure over \$500 during a calendar year or makes an electioneering communication within 30 days must file a report with the State Ethics Commission.
- Would require that any contributions received by a candidate to retire a debt from a campaign for an elective office must be used only to retire campaign debt.
- In a primary run-off, contributions made the day after the primary through the 7th day after the run off would be attributed to the run off for contribution limit purposes.
- An elected official cannot knowingly solicit a contribution from an employee within the official's area of official responsibility, nor can offer an advantage or disadvantage be provided to a public employee or applicant based upon a contribution.
- Eliminates "leadership PACs."

- A candidate, committee, or political party cannot offer to give money for the endorsement or opposition of a candidate that is not an advertisement purchased in the ordinary course of business.
- Prohibits utilizing campaign funds to pay penalties resulting from a criminal prosecution.
- A candidate, committee, public official, or political party cannot use campaign funds for personal use. Use of campaign funds for personal use that is \$10,000 or less is a misdemeanor; use of more than \$10,000 is a felony.
- A candidate for county-wide or less than county-wide office must electronically file a statement of economic interest.

Repeals various outdated provisions and contains various technical changes.