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S.251

Introduced by Senators Williams, Collamore, Weeks and Wrenner

Referred to Committee on

Date:

Subject: Executive; governmental ethics

Statement of purpose of bill as introduced: This bill proposes to prohibit individuals serving on State boards and commissions from holding other positions that develop or advocate policy on matters related to the individual's purview and duties. This bill also proposes to prohibit State employees from engaging in certain political activities, including improperly affecting nominations and elections, coercing employees to make political contributions, being an officer of a political party, and being a candidate for public office in a partisan election.

An act relating to State boards and commissions and State employees

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Restrictions on Individuals Serving on State Boards

and Commissions * * *

Sec. 1. 3 V.S.A. § 1203k is added to read:

§ 1203k. RESTRICTIONS ON INDIVIDUALS SERVING ON STATE

BOARDS AND COMMISSIONS

1 An individual appointed to serve on a State board or commission shall not
2 hold any position in any organization, other than that of a member, that
3 involves decision-making authority concerning the development or advocacy
4 of policy on matters related to the purview of the board or commission or the
5 individual's official duties. The entity authorized to appoint that individual
6 serving on the State board or commission may, after not less than 15 days'
7 notice and an opportunity for a hearing, remove that individual if it finds that
8 the individual holds any position contrary to the provisions of this section.

9 Sec. 2. 3 V.S.A. § 1223 is amended to read:

10 § 1223. PROCEDURE FOR HANDLING COMPLAINTS

11 (a) Accepting complaints.

12 (1) On behalf of the Commission, the Executive Director shall accept
13 complaints from any source regarding governmental ethics in any of the three
14 branches of State government or of the State's campaign finance law set forth
15 in 17 V.S.A. chapter 61.

16 (2) Complaints shall be in writing and shall include the identity of the
17 complainant.

18 (b) Preliminary review by Executive Director. The Executive Director
19 shall conduct a preliminary review of complaints made to the Commission in
20 order to take action as set forth in this subsection, which shall include referring
21 complaints to all relevant entities.

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(5) Restrictions on individuals serving on State boards and commissions.

(A) If the complaint alleges a violation of the restrictions placed on individuals serving on State boards and commissions pursuant to section 1203k of this title, the Executive Director shall refer the complaint to the entity that appointed the individual serving on the State board or commission.

(B) The entity that appointed the individual serving on the State board or commission shall report back to the Executive Director regarding the final disposition of a complaint referred under subdivision (A) of this subdivision (5) within 10 days following that final disposition.

~~(5)(6)~~ Closures. The Executive Director shall close any complaint that ~~he or she does~~ is not refer referred as set forth in subdivisions (1)–~~(4)~~(5) of this subsection.

(c) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

* * * Political Activity of State Employees * * *

Sec. 3. 17 V.S.A. chapter 63 is added to read:

CHAPTER 63. POLITICAL ACTIVITY OF STATE EMPLOYEES

§ 3200. DEFINITIONS

1 As used in this chapter:

2 (1) “Election” means any primary, special, or general election.

3 (2) “Nonpartisan election” means an election in which none of the
4 candidates are to be nominated or elected as representing a political party.

5 (3) “Partisan election” means an election in which the candidates are to
6 be nominated or elected as representing a political party.

7 (4) “Political party” has the same meaning as in section 2103 of this
8 title.

9 (5) “Public office,” as used in this chapter, has the same meaning as in
10 section 2103 of this title.

11 (6) “State employee” means an individual employed by a State agency
12 or an individual employed by another entity whose principal employment is in
13 connection with an activity that is financed in whole or in part by loans or
14 grants made by the State, but does not include:

15 (A) an individual who exercises no functions in connection with that
16 activity; or

17 (B) an individual employed by an educational or research institution,
18 establishment, agency, or system that is supported in whole or in part by the
19 State or a recognized religious, philanthropic, or cultural organization.

1 § 3201. PERMISSIBLE ACTIVITIES

2 All State employees are free to register to vote and vote as they choose and
3 to further engage in political activity to the widest extent consistent with the
4 restrictions imposed by this chapter. A State employee may participate in all
5 political activity not specifically restricted by this chapter, including candidacy
6 for office in a nonpartisan election.

7 § 3202. IMPERMISSIBLE ACTIVITIES; EXCEPTIONS

8 (a) A State employee shall not:

9 (1) use the employee's official authority or influence for the purpose of
10 interfering with or affecting the result of a nomination or election for a public
11 office;

12 (2) directly or indirectly coerce, attempt to coerce, command, or advise
13 another State employee to pay, lend, or contribute anything of value to a
14 political party, committee, organization, agency, or person for a political
15 purpose;

16 (3) be an officer of a political party, or a delegate to a political party
17 convention, or hold any similar position in a political party; or

18 (4) be a candidate for, be appointed to, or otherwise hold public office
19 determined by a partisan election, unless the State employee first requests a
20 leave of absence pursuant to 21 V.S.A. § 496.

21 (b) Subdivision (a)(4) of this section shall not apply to:

- 1 (1) the:
- 2 (A) Governor or an individual authorized by law to act as Governor;
- 3 (B) Lieutenant Governor;
- 4 (C) Treasurer;
- 5 (D) Secretary of State;
- 6 (E) Auditor of Accounts;
- 7 (F) Attorney General; or
- 8 (G) Justices of the Peace;
- 9 (2) probate judges and assistant judges;
- 10 (3) the mayor of a city; or
- 11 (4) an individual holding or appointed to a public office elected by
- 12 nonpartisan election.

13 § 3203. PENALTIES

- 14 (a) A State employee who knowingly and intentionally violates a provision
- 15 of this chapter, in addition to any discipline or sanction imposed by the State
- 16 employee's employer pursuant to an applicable employment policy, contract,
- 17 or collective bargaining agreement, shall be fined not more than \$1,000.00 or
- 18 imprisoned not more than six months, or both.
- 19 (b) In addition to the other penalties provided in this section, a State's
- 20 Attorney or the Attorney General may institute any appropriate action.

1 injunction, or other proceeding to prevent, restrain, correct, or abate any
2 violation of this chapter.

3 Sec. 4. 21 V.S.A. § 496 is amended to read:

4 § 496. ~~LEGISLATIVE~~ POLITICAL LEAVE

5 (a)(1) Any ~~person~~ individual who, in order to serve as a member of the
6 General Assembly, must leave a full-time position in the employ of any
7 employer, shall be entitled to a temporary or partial leave of absence for the
8 purpose of allowing such employee to perform any official duty in connection
9 with ~~his or her~~ the individual's elected office.

10 (2)(A) Any State employee who becomes a candidate for public office
11 in a partisan election shall request and be entitled to a temporary and unpaid
12 leave of absence for the purpose of running for that office.

13 (B) The Office of Legislative Operations shall indicate on the
14 General Assembly's website which members of the General Assembly are
15 current State employees.

16 (C) As used in this subdivision (a)(2), the terms "partisan election,"
17 "public office," and "State employee" have the same meanings as in 17 V.S.A.
18 § 3200.

19 (3) ~~Such leave~~ Leaves of absence described in subdivisions (1) and (2)
20 of this subsection shall not cause loss of job status, seniority, or the right to

1 participate in insurance and other employee benefits during the leave of
2 absence.

3 (b) An employee who intends to seek election ~~to the General Assembly~~
4 pursuant to subsection (a) of this section and to invoke, if elected, ~~his or her the~~
5 employee's right to a leave of absence pursuant to subsection (a) of this
6 section, shall notify ~~his or her the employee's~~ employer of those intentions in
7 writing within 10 days after filing the primary election nominating petition
8 required by 17 V.S.A. § 2353 or of taking any other action required by
9 17 V.S.A. chapter 49, to place ~~his or her the employee's~~ name on a primary or
10 general election ballot. An employee who fails to give notice to ~~his or her the~~
11 employee's employer as required by this section shall be deemed to have
12 waived ~~his or her the employee's~~ right to a leave of absence under subsection
13 (a) of this section.

14 (c) An employer who contends that granting the leave of absence required
15 by subsection (a) of this section will cause unreasonable hardship for ~~his or her~~
16 the employer's business may appeal for relief by letter to the Chair of the State
17 Labor Relations Board created by 3 V.S.A. § 921. The right to such appeal
18 shall be waived unless it is filed within 14 days ~~of~~ after receipt of the notice
19 required by subsection (b) of this section. The appeal shall state the name of
20 the employee and the reasons for the alleged unreasonable hardship. The
21 remedy created by this subsection shall be the exclusive remedy for an

1 employer who claims unreasonable hardship as a result of the application to
2 ~~him or her~~ the employee of subsection (a) of this section.

3 (d) The Chair of the State Labor Relations Board, or any member of the
4 Board designated by the Chair, shall serve as an arbitrator in any case appealed
5 pursuant to subsection (c) of this section. The proceedings shall include an
6 opportunity for the employee to respond, orally or in writing, to the allegations
7 of unreasonable hardship raised by the employer; and shall be conducted in
8 accord with the rules of practice of the State Labor Relations Board. Within 30
9 days ~~of~~ after receipt of a notice of appeal, the arbitrator shall issue an order,
10 which shall be binding on both parties, either granting or denying the
11 employer's claim of unreasonable hardship. If the employer's claim is granted,
12 the employee shall not be entitled to the protection of subsection (a) of this
13 section. ~~In reaching his or her decision, the~~ The arbitrator shall, in reaching a
14 decision, consider, but is not limited to considering, the following factors:

- 15 (1) the length of time the employee has been employed by the employer;
16 (2) the number of employees in the employer's business;
17 (3) the nature of the employer's business;
18 (4) the nature of the position held by the employee and the ease or
19 difficulty and cost of temporarily filling the position during the leave of
20 absence; and

1 (5) any agreement entered into between the employee and employer as a
2 condition of employment.

3 (e) This section is not applicable if the employer employs five or fewer
4 persons immediately prior to the first day of the leave of absence.

5 * * *

6 * * * Effective Date * * *

7 Sec. 5. EFFECTIVE DATE

8 This act shall take effect on passage.