

# HOUSE . . . . . No. 3663

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## *The Commonwealth of Massachusetts*

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By Mrs. Pines of Newton, petition for legislation to require certain public officials to file written statements of economic interests and relative to the establishment of a state ethics commission. State Administration.

Petition signed by:

Common Cause  
Ronald A. Pina  
Richard E. Kendall  
Paul H. Guzzi  
Laurence R. Buxbaum  
Edward J. Markey  
James E. Smith  
Robert E. McCarthy  
James Segel  
Barney Frank  
Angelo Cataldo  
Thomas P. O'Neill III  
John A. Businger  
Peter F. Harrington

Doris Bunte  
Melvin H. King  
David J. Lionett  
Thomas H. D. Mahoney  
John G. King  
James G. Collins  
David J. Mofenson  
Chester G. Atkins  
John W. Olver  
Peter L. Masnik  
Henry J. O'Donnell III  
Timothy A. Bassett  
Francis C. Lapointe  
Irving Fishman

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

### AN ACT TO AID ENFORCEMENT OF THE CONFLICT OF INTEREST LAW.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by  
2 inserting after chapter 268A the following new chapter: —

3 CHAPTER 268B

4 *Section 1.* The following persons shall file, under the penal-  
5 ties of perjury, written statements of economic interests as  
6 provided by this chapter.

7 (a) Members of the legislature and candidates for nomination  
8 or election to the legislature;

9 (b) Persons holding an elected office in the executive branch  
10 and candidates for nomination or election to such positions;

11 (c) Salaried members of any commission, board, or authority  
12 created by the Constitution or General Laws;

13 (d) Persons (excluding those primarily employed by the  
14 Commonwealth or by any political subdivision thereof in  
15 teaching as distinguished from administrative duties) who are  
16 compensated for services to the Commonwealth or any political  
17 subdivision thereof, as employees and not as independent  
18 contractors at the rate of \$20,000 per year or more, or are heads  
19 of state, county or municipal departments regardless of compen-  
20 sation;

21 (e) Persons who are holding elective office in the counties of  
22 the Commonwealth, and persons holding the following elective  
23 offices: (1) mayor; (2) city councillor or alderman; (3) school  
24 committeeman; (4) selectman; and (5) town clerk, whether by  
25 election or appointment, and candidates for nomination or  
26 election to such office;

27 (f) Persons receiving compensation from more than one  
28 governmental body;

29 (g) Persons retained by the Commonwealth or by any of its  
30 political subdivisions on a per diem or consulting basis, who  
31 receive compensation at the rate of \$20,000 per year or more.

1 SECTION 2. (a) The statement of economic interests re-  
2 quired by this chapter shall include the economic interests of the  
3 person making the statement as provided in section 1 of this  
4 chapter. The interests of the household of the person making the  
5 statement shall be considered to be the same as the interests of  
6 the person making the statement.

7 (b) *The following interests shall be listed by all persons*  
8 *required to file:*

9 (1) The identity, by name, of all offices, directorships and  
10 fiduciary relationships held by him during the preceding calendar  
11 year.

12 (2) The name, address and nature of any business, trust,  
13 professional organization or practice, in which the person making  
14 the statement was an employee, proprietor, associate, partner,  
15 stockholder or served in any advisory capacity and from which  
16 gross income in excess of \$500 was derived during the preceding  
17 calendar year.

18 (3) The description and address of all real estate, other than  
19 his domicile, in the Commonwealth in which he had any interest,  
20 including an option to buy, during the preceding calendar year.

21 (4) The name and address of each creditor to whom monies  
22 are owed, on an unsecured basis, in excess of \$500, provided that  
23 monies owned arising out of a retail installment transaction or  
24 directly on account of medical or dental expenses are not  
25 included, during the preceding calendar year.

26 (5) The name and address of any person or entity from which  
27 a gift or gifts, or honorarium or honoraria, valued singly or in the  
28 aggregate in excess of \$500 was received during the preceding  
29 calendar year.

30 (6) The name and address of the parties involved, and the  
31 description of the matter involved, in any situation in which the  
32 person making the statement served during the preceding  
33 calendar year as an officer, director, associate, partner, or  
34 proprietor in, or in any advisory capacity to, any professional  
35 organization or individual professional practice which during

36 such preceding calendar year appeared on behalf of or repre-  
37 sented a client before any board, commission authority or  
38 governing unit of the Commonwealth or any of its political  
39 subdivisions, in which any public official or executive agency of  
40 the Commonwealth or of any of its political subdivisions was a  
41 party, and in which a fee of \$500 or more was charged.

42 (7) The compensation and expenses received from each  
43 governmental body if receiving such compensation or expenses  
44 from more than one governmental body.

45 (8) No provision of this section shall be interpreted to  
46 prevent any person from filing more information or more  
47 detailed information than required.

48 *Section 3.* A person who is required to file a written  
49 statement of economic interests under section 1 and who  
50 occupies more than one position described by subsections (a)  
51 through (g) of section 1, shall be deemed to have complied with  
52 this chapter if all such positions are specified on one statement of  
53 economic interests filed by such person.

54 *Section 4.* Any statement of economic interests filed under  
55 this chapter shall be filed with the ethics commission on a form  
56 prescribed by the ethics commission and shall be a matter of  
57 public record, available for examination by the public at all  
58 reasonable times.

59 *Section 5.* (a) Each person who files a declaration of candi-  
60 dacy or a petition to appear on the ballot for election as a public  
61 official, who is required to file a statement of economic interests  
62 by subsections (a), (b), or (f) of section 1 of this chapter, shall  
63 file such statement of economic interests with his nomination  
64 papers. If a candidate for such elective public office does not  
65 submit a statement of economic interests in accordance with the  
66 requirements of this chapter, his name shall not be placed on the  
67 ballot and votes cast for him shall not be counted.

68 (b) Each person who is nominated by the Governor or by the  
69 executive branch or by the moderator of any political subdivi-  
70 sions of the Commonwealth, and each person who holds elective  
71 office by appointment to serve as a public official and who is  
72 required to file a statement of economic interests under section 1  
73 of this chapter, shall file such statement of economic interests  
74 before he shall be allowed to assume the responsibilities of such  
75 position.

76 (c) Each person retained by the Commonwealth or by any of  
77 its political subdivisions on a per diem or consulting basis, and  
78 persons (excluding those primarily employed by the Common-  
79 wealth or by any political subdivision thereof in teaching as  
80 distinguished from administrative duties and excluding the  
81 judicial branch) who are compensated for services to the  
82 Commonwealth or any political subdivision thereof, as employ-  
83 ees and not as independent contractors at the rate of \$20,000 per  
84 year or more, or are heads of state, county or municipal  
85 departments regardless of compensation, shall file a statement of  
86 economic interests before he shall be allowed to commence work  
87 for, or on behalf of, the Commonwealth or any political  
88 subdivision thereof.

89 *Section 6.* Any person who is required to file a statement of  
90 economic interests under this chapter shall also file a statement  
91 complying with this chapter within thirty days of the anniversary  
92 of the date on which the first statement was filed by that person  
93 on a form prescribed by the ethics commission and within three  
94 months of any substantial addition, deletion, or change in the  
95 nomination required under section 2 of this chapter. An  
96 unsuccessful candidate for public office shall no longer be  
97 required to file such statements.

98 *Section 7.* Any person required to file a statement of  
99 economic interests under this chapter who willfully files a false or  
100 incomplete statement shall be fined a sum not to exceed \$1,000  
101 or imprisoned in a penal institution for a term not to exceed one  
102 year, or both.

103 *Section 8.* The superior court shall have jurisdiction to issue  
104 an order requiring the attorney general to enforce the provisions  
105 of this chapter upon application by any citizen of this Common-  
106 wealth.

107 *Section 9.* If any provision of this chapter, or the application  
108 thereof, to any person or circumstance is held invalid, the  
109 validity of the remainder of such chapter and the application of  
110 such provision to other persons and circumstances shall not be  
111 affected thereby.

112 *Section 10.* The General Laws are hereby amended by  
113 inserting after chapter 268B the following chapter:—

114

## CHAPTER 268C

115 *Section 1.* (a) There is hereby created a state ethics commis-  
116 sion which shall be composed of seven members, no more than  
117 four of whom shall be members of the same political party. Two  
118 of the members shall be appointed by the Speaker of the House,  
119 two shall be appointed by the Senate President and three shall be  
120 appointed by the Governor. One of the original members shall be  
121 appointed for a term of one year, one for a term of two years,  
122 one for a term of three years, two for a term of four years and  
123 two for a term of five years, beginning from the date of  
124 enactment of this act. Lots shall be drawn to determine which  
125 office shall make the specific appointments. Successors shall be  
126 appointed for terms of five years each and shall be selected by  
127 the same office which made the original appointment, except  
128 that any individual chosen to fill a vacancy shall be appointed  
129 only for the unexpired term of the member whom he shall  
130 succeed. The Governor shall designate one member to serve as  
131 Chairman of the commission and one member to serve as Vice  
132 Chairman. The Vice Chairman shall act as Chairman in the  
133 absence of disability of the Chairman or in the event of a vacancy  
134 in that office.

135 (b) A vacancy in the commission shall not impair the right of  
136 the remaining members to exercise all the powers of the  
137 Commission and four members thereof shall constitute a  
138 quorum.

139 (c) The commission shall at the close of each fiscal year  
140 report to the legislature and the Governor concerning the action  
141 it has taken; the names, salaries, and duties of all individuals in its  
142 employ and the money it has disbursed; and shall make such  
143 further reports on the matters within its jurisdiction and such  
144 recommendations for further legislation as may appear desirable.

145 (d) Members of the commission shall while serving on the  
146 business of the commission be entitled to receive compensation  
147 at a rate of \$50 per day on those days which the commission  
148 meets.

149 (e) The office of the commission shall be in or near the state  
150 capital, but it may meet to exercise any or all its powers at any  
151 other place in the state.

152 (f) All members, officers, agents, attorneys, and employees of  
153 the Commission shall be subject to the provisions of chapter 55  
154 prohibiting political activity of state employees.

155 (g) The commission shall appoint an Executive Director and  
156 such other staff as may be deemed necessary to serve at the  
157 pleasure of the commission. The Executive Director shall be  
158 responsible for the administrative operations of the commission  
159 and shall perform such other duties as may be delegated or  
160 assigned to him from time to time by regulations or orders of the  
161 commission. However, the commission shall not delegate the  
162 making of regulations to the Executive Director.

163 *Section 2.* It shall be the duty of the commission:

164 (1) to supervise and enforce the provisions of chapter 268A  
165 and 268B.

166 (2) to approve prescribed forms for the making of the  
167 statements required by chapter 268A and 268B.

168 (3) to prepare and publish guidelines setting forth recom-  
169 mended uniform methods of reporting to be used by persons  
170 required to file statements in accordance with chapter 268A and  
171 268B.

172 (4) to accept and file any information voluntarily supplied  
173 that exceeds the requirements of chapter 268A and 268B.

174 (5) to make investigations with respect to statements filed  
175 under the provisions of chapter 268A and B and with respect to  
176 alleged failures to file any statement required under the  
177 provisions of chapter 268A and B.

178 (6) to investigate suspected violations of chapter 268A and  
179 268B upon the petition of five citizens of the commonwealth  
180 and to make public its findings.

181 (7) to report suspected violations of law to the appropriate  
182 law enforcement authorities.

183 (8) to issue advisory opinions on the requirements of chapter  
184 268A and B concerning appointments of the Governor and  
185 appointments to committees of the general court.

186 (9) to prescribe other rules and regulations necessary to carry  
187 out provisions of chapter 268A and B.

188 *Section 3.* The Attorney General shall issue, upon request of  
189 the commission, advisory opinions on the requirements of  
190 chapters 268A and 268B, based on a real or potential set of  
191 circumstances.

192 *Section 4.* Persons being investigated shall be notified of the  
193 investigation and be provided with the fullest possible measure of  
194 due process including, if requested, the right to a hearing.

195 *Section 5.* The superior court of this state shall have jurisdic-  
196 tion to issue injunctions to enforce the provisions of this act  
197 upon application by any citizen of the commonwealth.

198 *Section 6.* If any provision of this act, or the application  
199 thereof, to any person or circumstance is held invalid, the  
200 validity of the remainder of such act and the application of such  
201 provisions to other persons and circumstances shall not be  
202 affected thereby.