

**House Committee on Ethics
Ethics Legislation
Section-by-Section
Summary**

Section 1. This section would amend section 39 of chapter 3 to update the definition of “client” to include persons, corporations, partnerships, associations, and other entities.

Section 2. This section would make two substantive changes:

1. Would amend section 39 of chapter 3 to update the definitions of “executive agent” to include the term “executive lobbying” and would reduce the amount of permissible incidental lobbying from 50 hours or \$5,000 in any 6-month reporting period to 10 hours or \$2,500 in any 3-month reporting period; and
2. Would insert a definition in section 39 of chapter 3 for the term “executive lobbying” which would include: (i) municipal lobbying connected to state lobbying; and (ii) strategizing, planning, research, and other background work if performed in connection with, or for use in, an actual communication with a government employee.

Section 3. This section would make two substantive changes:

1. Would amend section 39 of chapter 3 to update the definitions of “legislative agent” to include the term “legislative lobbying” and would reduce the amount of permissible incidental lobbying from 50 hours or \$5,000 in any 6-month reporting period to 10 hours or \$2,500 in any 3-month reporting period; and
2. Would insert a definition in section 39 of chapter 3 for the term “legislative lobbying” which would include: (i) municipal lobbying connected to state lobbying; and (ii) strategizing, planning, research, and other background work if performed in connection with, or for use in, an actual communication with a government employee.

Section 4. This section would amend section 41 of chapter 3 to require all legislative and executive agents to annually complete a certification course offered by the Secretary of State’s Office prior to registering as a legislative or executive agent.

Section 5. This section would amend section 41 of chapter 3 to require the Secretary of State to:

1. to issue each legislative and executive agent a license every year;
2. promulgate regulations pursuant to chapter 30A for administration and enforcement of the lobbying laws; and
3. to provide confidential, binding advisory opinions.

Section 6. This section would amend section 43 of chapter 3 to require all executive and legislative agents to file reports, regardless of whether they are registered and their names appear on the docket.

Section 7. This section would amend section 43 of chapter 3 to update the information that must be reported by legislative and executive agents to include:

- (1) the identification of each client for whom the legislative or executive agent provided lobbying services;
- (2) a list of all bill numbers and names of legislation and other governmental action that the executive or legislative agent acted to monitor, promote, oppose or influence;
- (3) a list of all line-item numbers in any appropriation bill that the executive or legislative agent acted to monitor, promote, oppose or influence;
- (4) a statement of the executive or legislative agent's position, if any, on each such bill, line item or other governmental action;
- (5) the identification of the client or clients on whose behalf the executive or legislative agent was acting with respect to each such bill, line item or governmental action;
- (6) the amount of compensation received for executive or legislative lobbying from each client with respect to such lobbying services; and
- (7) all direct business associations with public officials

Section 8. This section would amend section 43 of chapter 3 to increase the penalty applicable to legislative and executive agents and employers of legislative and executive agents who file late statements from \$250 if the statement is less than 10 days late or \$500 if the statement is more than 10 days late to \$50 per day for the first 20 days late and \$100 per day for every day after the twentieth day.

Section 9. This section would amend section 45 of chapter 3 to provide the Secretary of State with civil enforcement authority over the lobbying laws, including authority to subpoena documents and testimony; conduct adjudicatory proceedings; impose civil fines of up to \$10,000 per violation; and suspend and revoke a violator's license.

Section 10. This section would amend section 47 of chapter 3 to require all executive and legislative agents to file reports, regardless of whether they are registered and their names appear on the docket.

Section 11. This section would amend section 47 of chapter 3 to increase the penalty applicable to legislative and executive agents and employers of legislative and executive agents who file late statements from \$250 if the statement is less than 10 days late or \$500 if the statement is more than 10 days late to \$50 per day for the first 20 days late and \$100 per day for every day after the twentieth day.

Section 12. This section would amend section 48 of chapter 3 to increase the criminal penalty for violating the lobbying laws from a fine of not less than \$100 and not more than \$5,000, to a fine of up to \$10,000, or up to 5 years imprisonment in a state prison, or up to 2 1/2 years in a house of correction, or both.

Section 13. This section would amend section 49 of chapter 3 to provide the Attorney General with civil enforcement authority over violations of registration, filing fee, identification card requirements, and violations concerning improper agreements to influence decisions of executive branch employees or legislation.

Section 14. This section would make a technical change to section 9A of chapter 53 changing a reference from chapter 55A (which has been repealed) to chapter 55C.

Section 15. This section would amend the term “contribution” in chapter 55 of the General Laws (the campaign finance law) to include any donations to inaugural, recount, and legal defense funds.

Section 16. This section would amend section 3 of said chapter 55 to prohibit the name of a candidate who fails to file any statement or report after receiving notice under this section of such failure and who continues to fail to file such statement or report after the institution of civil proceedings under this section to compel such filing, from appearing on a state ballot after the initiation of such civil proceedings until such time as the statement or report is filed, and requires the director to inform the state secretary of such failure prior to the deadline for filing nomination papers with the state secretary for such candidate pursuant to chapter 53.

Section 17. This section would amend section 3 of said chapter 55 to allow the Director of OCPF to inform any person or committee under investigation by personal delivery, by leaving a copy of the notice at the person’s last and usual place of residence or by delivering a copy of the notice to an attorney who has appeared on behalf of the alleged violator.

Section 18. This section would amend section 3 of said chapter 55 to clarify the deadlines for which the Director of OCPF may refer an action to the AG. Currently, section 3 requires that evidence of any violation of this chapter which has come to the attention of the Director of OCPF shall be presented by the Director to the Attorney General only after the relevant election involved, but within two years after said election. This section would amend this as follows:

1. For a candidate who is holding elective office whose term of office is 3 or more years, evidence of any violation of this chapter, if submitted to the attorney general prior to the next election for the office held by the candidate that occurs after the violation, shall be submitted no later than 2 years prior to such election, and if submitted after the election, such evidence may not be submitted more than 3 years after said election.
2. For all other persons or entities under investigation for violations relating to an identifiable election, evidence of any violation of this chapter shall be presented by the director to the attorney general only after the next relevant election, but within 3 years after said election.
3. If the evidence does not relate to an identifiable election, referral shall take place within 3 years of the violation.

Section 19. This section would amend section 3 of said chapter 55 to increase the penalties for late filed reports from \$10 per day and not more than \$2,500 to \$25 per day and not more than \$5,000.

Section 20. This section would amend section 8 of said chapter 55 to clarify that professional corporation are not permitted to make political donations.

Section 21. This section would amend section 18 of said chapter 55 to require candidates for mayor in cities with a population of 40,000 or more to file with OCPF.

Section 22. This section would amend section 18 of said chapter 55 to require legislative candidates to file campaign finance reports twice in the non-election year.

Section 23. This section would amend section 18 of said chapter 55 to require legislative candidates to file campaign finance reports twice in the non-election year.

Section 24. This section would amend section 18 of said chapter 55 to require legislative candidates to file campaign finance reports twice in the non-election year.

Section 25. This section would insert a new section 18D into chapter 55. Section 18D would require that consultants report expenditures to sub-vendors.

Section 26. This section would make a technical change to section 22 of chapter 55 of the General Laws clarifying that persons shall be subject to section 22.

Section 27. This section would make a technical change to section 22 of chapter 55 of the General Laws clarifying that persons shall be subject to section 22.

Section 28. This section would make a technical change to section 22 of chapter 55 of the General Laws clarifying that persons shall be subject to section 22.

Section 29. This section would amend section 24 of chapter 55 to require certain local candidates to file statements and reports with OCPF electronically.

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Section 31. This section would amend section 24 of chapter 55 to require certain local candidates to file statements and reports with OCPF electronically.

Section 32. This section would amend section 29 of chapter 55 to authorize the Director of OCPF to refer local matters to the Attorney General.

Section 33. This section would amend section 4 of chapter 55C (campaign financing) to authorize to streamline administration of public financing for statewide candidates by requiring candidates for Governor to file before candidates for other statewide office.

Section 34. This section would amend section 6 of chapter 55C to authorize to streamline administration of public financing for statewide candidates by requiring candidates for Governor to file before candidates for other statewide office.

Section 35. This section would add a new section 13E to chapter 268 codifying the crime of obstruction of justice and providing penalties of up to \$25,000, or up to 10 years imprisonment in a state prison, or up to 2 1/2 years in a house of correction, or both, for a violation.

Section 36. This section would amend section 2 of chapter 268A to increase the maximum criminal penalty for giving or receiving a bribe to influence an official act from a fine of \$5,000, or 3 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both, to a fine of up to \$100,000, or up to 10 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both.

Section 37. This section would amend section 3 of chapter 268A to increase the penalties for receiving gifts and gratuities from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 38. This section would amend section 3 of chapter 268A and require the commission to adopt regulations: (i) defining “substantial value,” provided however that “substantial value” shall not be less than \$50; (ii) establishing exclusions for ceremonial gifts; (iii) establishing exclusions for gifts given solely because of family or friendship; and (iv) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

Section 39. This section would amend section 4 of chapter 268A to increase the penalties for receiving compensation for state action from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 40. This section would amend section 5(e) of chapter 268A to include executive agents and executive lobbying in the revolving door provisions.

Section 41. This section would amend section 5 of chapter 268A to allow the state ethics commission to determine by regulation the “governmental body” a former employee was employed by for purposes of the revolving door prohibition.

Section 42. This section would amend section 5 of chapter 268A to increase the penalties for revolving door violations from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 43. This section would amend section 6 of chapter 268A to increase the penalties for participation in a matter in which employee has a financial interest from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 44. This section would amend section 7 of chapter 268A to increase the penalties for participation in a matter in which employee has a financial interest in the contract of a state agency from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 45. This section would amend section 8 of chapter 268A to increase the penalties for directing a bidder to a particular insurer on public building or construction contract from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 46. This section would amend section 9 of chapter 268A to allow the Ethics Commission to recover, after an adjudicatory proceeding, the amount of the economic advantage resulting from a violation or restitution up to \$25,000 without filing a separate lawsuit. This section would also permit the accused to appeal the Commission's decision in Superior Court.

Section 47. This section would amend section 11 of chapter 268A to increase the penalties for receiving compensation for a county action from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 48. This section would amend section 12 of chapter 268A to increase the penalties for former county employees who act as an agent or attorney before their former employer, or a

partner of a former county employee who does the same, from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 49. This section would amend section 13 of chapter 268A to increase the penalties for participation by a county employee in a matter in which employee or a family member has a financial interest from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 50. This section would amend section 14 of chapter 268A to increase the penalties for a county employees participation in a matter in which employee has a financial interest in the contract of a state agency from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 51. This section would amend section 15 of chapter 268A to allow the Ethics Commission to recover, after an adjudicatory proceeding, the amount of the economic advantage resulting from a violation or restitution up to \$25,000 without filing a separate lawsuit. This section would also permit the accused to appeal the Commission's decision in Superior Court.

Section 52. This section would amend section 17 of chapter 268A to increase the penalties for a municipal employee who receives compensation for municipal action or who acts as an agent or attorney for any other than the municipality from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 53. This section would amend section 18 of chapter 268A to increase the penalties for former municipal employees who act as an agent or attorney before their former employer, or appears before his former employer 1 within the 1 year cooling off period, or a partner of a former county employee who does the same, from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 54. This section would amend section 19 of chapter 268A to increase the penalties for a municipal employee who participates in a matter for which he has a financial interest, from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 55. This section would amend section 20 of chapter 268A to increase the penalties for a municipal employee's participation in a matter in which employee has a financial interest in the contract of a municipal agency from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer) to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

Section 56. This section would amend section 21 of chapter 268A to allow the Ethics Commission to recover, after an adjudicatory proceeding, the amount of the economic advantage resulting from a violation or restitution up to \$25,000 without filing a separate lawsuit. This section would also permit the accused to appeal the Commission's decision in Superior Court.

Section 57. This section would amend section 23 of chapter 268A to prohibit any state, county or municipal employee from presenting a false or fraudulent claim to his employer for any payment or benefit of substantial value.

Section 58. This section would repeal language requiring municipal officials to be provided with a copy of section 23 of chapter 268A.

Section 59. This section would amend chapter 268A by adding the following 4 new sections:

1. Section 26 to impose criminal penalties for fraudulently violating section 23(b)(1), (2) or 23(c) or, with fraudulent intent, causing another person to violate section 23(b)(1), (2) or 23(c), of a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment;
2. Section 27 to provide that all government employees receive a summary of the conflict of interest laws from the Ethics Commission within 30 days of becoming a government employee and every year thereafter;
3. Section 28 to provide that the Ethics Commission establish an online training program on the conflict of interest laws and that all government employees must take the online training program within 30 days of becoming a government employee and every 2 years thereafter;
4. Section 29 to provide that each municipality designate a senior level employee to serve as its liaison to the Ethics Commission and that the Ethics Commission develop a certification program for municipalities and provide training to the designated liaisons.

Section 60. This section would amend section 1 of chapter 268B by inserting and defining the term “executive agent” in the same manner it was defined pursuant to chapter 268A.

Section 61. This section would amend section 1 of chapter 268B by defining the term “legislative agent” in the same manner it was defined pursuant to chapter 268A.

Section 62. This section would amend section 2 of chapter 268B to authorize the Secretary of State and the Inspector General to provide personnel and other assistance to the Commission, just as the State Police, the State Auditor, the Comptroller, the Attorney General, and the Director of OCPF are currently authorized to do.

Section 63. This section would amend section 3 of chapter 268B to provide the Ethics Commission the authority to promulgate regulations for the administration and enforcement of the conflict of interest laws.

Section 64. This section would amend section 4 of chapter 268B to expand the Commission’s authority to share information with the offices of: the Attorney General, the United States Attorney, the District Attorney, the Inspector General, the Secretary of State, and the Office of Campaign and Political Finance.

Section 65. This section would amend section 4 of chapter 268B to require the Commission, upon termination of an inquiry for failure to find cause, to notify the subject of the inquiry within 30 days.

Section 66. This section would amend section 4 of chapter 268B to include a 5 year statute of limitations for ethics violations, beginning from the date the Commission learns of the violation. Notwithstanding the 5 year statute of limitations, the Commission would be prohibited from bringing any action for a violation that occurred more than 6 years from the date of the most recent alleged misconduct.

Section 67. This section would amend section 4 of chapter 268B to mandate compliance with summonses issued by the Ethics Commission and allow the recipient to seek a court order quashing the summons.

Section 68. This section would amend section 4(j)(3) of chapter 268B to increase the penalty for a civil violation of any conflict of interest law other than bribery or any financial disclosure law from a maximum of \$2,000 per violation to a maximum of \$10,000 per violation. The civil penalty for bribery is increased to \$25,000.

Section 69. This section would amend sections 4 of chapter 268B to clarify that the Ethics Commission’s authority to file an action in Superior Court to enforce an order and the Superior Court’s ability to review the order applies to orders issued in accordance with chapter 268A in addition to chapter 268B.

Section 70. This section would amend sections 4 of chapter 268B to clarify that the Ethics Commission's authority to file an action in Superior Court to enforce an order and the Superior Court's ability to review the order applies to orders issued in accordance with chapter 268A in addition to chapter 268B.

Section 71. This section would amend section 4 of chapter 268B to allow the Attorney General, along with the Ethics Commission, to civilly enforce the conflict of interest laws.

Section 72. This section would amend section 4 of chapter 268B by increasing the minimum amount of an employee is eligible to receive for attorney's fees and court costs upon the Superior Court overturning a decision of the Ethics Commission from \$20,000 to \$30,000.

Section 73. This section would amend section 5 of chapter 268B to include executive agents and executive lobbying to the revolving door provisions.

Section 74. This section would amend section 6 of chapter 268B by prohibiting gifts from legislative or executive agents to government officials or employees.

Section 75. This section would amend section 7 of chapter 268B to increase the penalty for willfully making false statements in a proceeding before the Ethics Commission or for willfully filing a materially false SFI from a maximum of a \$1,000 fine, or 3 years imprisonment in a state prison or 2 1/2 years in a house of correction, or both to a maximum of a \$10,000 fine, 5 years imprisonment in a state prison or 2 1/2 years in a house of correction, or both.

Section 76. This section would amend section 7 of chapter 268B to increase the penalty for willfully making false statements in a proceeding before the Ethics Commission or for willfully filing a materially false SFI from a maximum of a \$1,000 fine, or 3 years imprisonment in a state prison or 2 1/2 years in a house of correction, or both to a maximum of a \$10,000 fine, 5 years imprisonment in a state prison or 2 1/2 years in a house of correction, or both.

Section 77. This section would add a new chapter 277A to provide for a statewide grand jury with jurisdiction throughout Massachusetts.

Section 78. This section is a notwithstanding section which would require that every legislative agent or executive agent as defined by section 39 of chapter 3 of the General Laws shall, within 90 days after the effective date of this act, and every year thereafter, complete an in-person or online seminar offered by the state secretary in accordance with section 41 of chapter 3.

Section 79. This section is a notwithstanding section which would require that every state, county, and municipal employee shall be provided a summary of chapter 268A prepared by the state ethics commission and shall file a written acknowledgment as required by that section.

Section 80. This section is a notwithstanding section which would require that within 120 days after the effective date of this act, each municipality shall provide written notification to the state ethics commission of the liaison designated under section 28 of chapter 268A of the General Laws.

Section 81. This section is a notwithstanding section which would establish a special commission to study the creation of new independent office of public accountability which would function as the single state entity for the administration and enforcement of the provisions of law currently administered and enforced by the state ethics commission, the office of campaign and political finance and the lobbyist division of the office of the secretary of state.

Section 82. This section establishes the effective date for sections 14-34 (campaign finance) as of January 1, 2010

Section 83. This section sunsets section 77 (statewide grand jury) for December 31, 2012.