

# SENATE NO. 1863

## **AN ACT** CLARIFYING, UPDATING AND MAKING TECHNICAL CORRECTIONS TO 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. Section 4 of Chapter 268A of the General Laws, as appearing in the 2004 Official  
2 Edition, is hereby amended by inserting after paragraph (c) the following paragraph:-

3 (d) No partner of a state employee shall knowingly act as agent or attorney for anyone other than the  
4 commonwealth in connection with any particular matter in which the commonwealth or a state agency  
5 is a party or has a direct and substantial interest and in which the state employee participates or has  
6 participated as a state employee or which is the subject of his official responsibility.

7 SECTION 2. Section 4 of said chapter 268A, as so appearing, is hereby amended by striking out the  
8 sixth paragraph and inserting in place thereof the following paragraph:-

9 A special state employee shall be subject to paragraphs (a) and (c) only in relation to a particular  
10 matter (a) in which he has at any time participated as a state employee, or (b) which is or within 1 year  
11 has been a subject of his official responsibility, or (c) which is pending in the state agency in which he  
12 is serving. Clause (c) of the preceding sentence shall not apply in the case of a special state employee  
13 who serves for no more than 200 hours during a calendar year.

14 SECTION 3. Section 4 of said chapter 268A, as so appearing, is hereby further amended by adding  
15 after the sixth paragraph the following paragraph:-

16 If a partner of a member of the general court or of a special state employee is also a member of another  
17 partnership in which the member of the general court or special state employee has no interest, the  
18 activities of the latter partnership in which the member of the general court or special state employee  
19 takes no part shall not thereby be subject to clause (c) or (d).

20 SECTION 4. Section 4 of said chapter 268A, as so appearing, is hereby further amended in line 57 by  
21 striking the words:- “present or former.”

22 SECTION 5. Section 5 of said chapter 268A, as so appearing, is hereby amended by striking out  
23 paragraph (d).

24 SECTION 6. Section 5 of said chapter 268A, as so appearing, in the 2004 Official Edition, is hereby  
25 amended in line 26 by inserting after the word “legislative” the following words:- or executive

26 SECTION 7. Section 5 of said chapter 268A, as so appearing, is hereby further amended in lines 43  
27 and 44 by striking out the words:- “member of the general court or a special state employee or of a”

28 SECTION 8. Section 5 of said chapter 268A, as so appearing, is hereby further amended in line 49 by  
29 striking out the “words:- present or”

30 SECTION 9. Section 5 of chapter 268A of the General Laws, as so appearing, is hereby amended by  
31 inserting after the last paragraph the following paragraph:-

32 This section shall not prevent a former state employee from giving testimony under oath or making  
33 statements required to be made under penalty for perjury or contempt.

34 SECTION 10. Section 11 of said chapter 268A, as so appearing, is hereby amended by inserting after  
35 paragraph (c) the following paragraph (d):-

36 (d) No partner of a county employee shall knowingly act as agent or attorney for anyone other than the  
37 county in connection with any particular matter in which the county or a county agency of the same  
38 county is a party or has a direct and substantial interest and in which the county employee participates  
39 or has participated as a county employee or which is the subject of his official responsibility.

40 SECTION 11. Section 11 of said chapter 268A, as so appearing, is hereby further amended by adding  
41 after the fifth paragraph the following paragraph:-

42 If a partner of a special county employee is also a member of another partnership in which the special  
43 county employee has no interest, the activities of the latter partnership in which the special county  
44 employee takes no part shall not thereby be subject to clause (c) or (d).

45 SECTION 12. Section 11 of said chapter 268A, as so appearing, is hereby further amended in line 39  
46 by striking out the words:- “present or former.”

47 SECTION 13. Section 11 of said chapter 268A, as so appearing, is hereby amended by striking out the  
48 fifth paragraph and inserting in place thereof the following paragraph:-

49 A county employee shall be subject to paragraphs (a) and (c) only in relation to the county of which he  
50 is an employee. A special county employee shall be subject to said paragraphs (a) and (c) only in  
51 relation to a particular matter (a) in which he has at any time participated as a county employee, or (b)  
52 which is or within 1 year has been a subject of his official responsibility, or (c) which is pending in the  
53 county agency in which he is serving. Clause (c) of the preceding sentence shall not apply in the case  
54 of a special county employee who serves for no more than 200 hours during a calendar year.

55 SECTION 14. Section 12 of said chapter 268A, as so appearing, is hereby amended by striking out  
56 clause (d).

57 SECTION 15. Section 12 of said chapter 268A, as so appearing, is hereby further amended by  
58 inserting after the word “or” on line 17 the following:- shall be punished by a fine of not more than  
59 \$3,000 or by imprisonment for not more than 2 years or both.

60 SECTION 16. Section 12 of said chapter 268A, as so appearing, is hereby further amended in line 26  
61 by striking out the words:- “special county employee or of a”

62 SECTION 17. Section 12 of said chapter 268A, as so appearing, is hereby further amended in line 31  
63 by striking out the words:- “present or”

64 SECTION 18. Section 12 of said chapter 268A, as so appearing, is hereby amended by inserting after  
65 the last paragraph the following paragraph:-

66 This section shall not prevent a former county employee from giving testimony under oath or making  
67 statements required to be made under penalty for perjury or contempt.

68 SECTION 19. Section 17 of said chapter 268A, as so appearing, is hereby amended by inserting after  
69 paragraph (c) the following paragraph (d):-

70 (d) No partner of a municipal employee shall act as agent or attorney for anyone other than the city or  
71 town in connection with any particular matter in which the same city or town is a party or has a direct  
72 and substantial interest and in which the municipal employee participates or has participated as a  
73 municipal employee or which is the subject of his official responsibility.

74 SECTION 20. Section 17 of said chapter 268A, as so appearing, is hereby further amended by  
75 inserting after the fifth paragraph the following paragraph:-

76 If a partner of a special municipal employee is also a member of another partnership in which the  
77 special municipal employee has no interest, the activities of the latter partnership in which the special  
78 municipal employee takes no part shall not thereby be subject to clause (c) or (d).

79 SECTION 21. Section 17 of said chapter 268A, as so appearing, is hereby amended in line 39 by  
80 striking the words:- “present or former”

81 SECTION 22. Section 17 of said chapter 268A, as so appearing, is hereby amended by striking out the  
82 fifth paragraph and inserting in place thereof the following paragraph:-

83 A special municipal employee shall be subject to paragraphs (a) and (c) only in relation to a particular  
84 matter (a) in which he has at any time participated as a municipal employee, or (b) which is or within 1  
85 has been a subject of his official responsibility, or (c) which is pending in the municipal agency in  
86 which he is serving. Clause (c) of the preceding sentence shall not apply in the case of a special  
87 municipal employee who serves for no more than 200 hours during a calendar year.

88 SECTION 23. Section 18 of said chapter 268A, as so appearing, is hereby amended by striking out  
89 clause (d).

90 SECTION 24. Section 18 of said chapter 268A, as so appearing, is hereby further amended in lines 24  
91 and 25 by striking out the words:- “or of a special municipal employee.”

92 SECTION 25. Section 18 of said chapter 268A, as so appearing, is hereby further amended in line 36  
93 by striking out the words:- “present or”

94 SECTION 26. Section 18 of said chapter 268A, as so appearing, is hereby amended by inserting after  
95 the last paragraph the following paragraph:-

96 This section shall not prevent a former municipal employee from giving testimony under oath or  
97 making statements required to be made under penalty for perjury or contempt.

98 SECTION 27. Section 20 of said chapter 268A, as so appearing, is hereby amended in line 116 by  
99 striking the words “three thousand five hundred” and inserting in place thereof the following:- “five  
100 thousand”

101 SECTION 28. Section 1 of chapter 268B of the General Laws, as appearing in the 2004 Official  
102 Edition, is hereby amended by inserting in line 38 after the definition of “equity” the following:- (f)(1)  
103 “executive agent” means any person who is an executive agent as defined in section 39 of chapter 3.

104 SECTION 29. Section 1 of said chapter 268B, as so appearing, is further amended by striking the  
105 definition of “legislative agent” and inserting in place thereof the following definition:

106 “legislative agent” means any person who is a legislative agent as defined in section 39 of chapter 3.

107 SECTION 30. Section 5 of said chapter 268B, as so appearing, is hereby amended by inserting after  
108 the word “legislative” in line 68 the following words:- or executive

109 SECTION 31. Section 6 of said chapter 268B, as so appearing, is hereby amended by inserting after  
110 the word “legislative” in line 1 the following words:- or executive