



House of Representatives

General Assembly

File No. 410

February Session, 2022

House Bill No. 5377

House of Representatives, April 12, 2022

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING CONFLICTS OF INTEREST DUE TO AN EMPLOYER OTHER THAN THE STATE UNDER THE STATE CODE OF ETHICS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-85 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) For purposes of this section, "business with which the public
4 official or state employee is associated" has the same meaning as
5 "business with which he is associated", as provided in section 1-79. A
6 public official, including an elected state official, or state employee has
7 an interest which is in substantial conflict with the proper discharge of
8 [his] such official's or employee's duties or employment in the public
9 interest and of [his] such official's or employee's responsibilities as
10 prescribed in the laws of this state, if [he] such official or employee has
11 reason to believe or expect that [he, his] such official or employee or
12 such official's or employee's spouse, [a] dependent child, employer

13 other than the state, spouse's employer or a business with which [he] the
14 public official or state employee is associated will derive a direct
15 monetary gain or suffer a direct monetary loss, as the case may be, by
16 reason of [his] such official's or employee's official activity. A public
17 official, including an elected state official, or state employee does not
18 have an interest which is in substantial conflict with the proper
19 discharge of [his] such official's or employee's duties in the public
20 interest and of [his] such official's or employee's responsibilities as
21 prescribed by the laws of this state, if any benefit or detriment accrues
22 to [him, his] such official or employee, such official's or employee's
23 spouse, [a] dependent child, employer other than the state, spouse's
24 employer or a business with which [he, his spouse or such dependent
25 child] the public official or state employee is associated as a member of
26 a profession, occupation or group to no greater extent than any other
27 member of such profession, occupation or group. [A] Except as
28 provided in subsection (b) of this section, a public official, including an
29 elected state official or state employee who has a substantial conflict
30 may not take official action on the matter.

31 (b) If an elected state official has a substantial conflict regarding a
32 matter that concerns a direct monetary gain or direct monetary loss for
33 the other employer of such official or the employer of such official's
34 spouse, such official shall either excuse himself or herself from the
35 matter or, prior to taking official action on the matter, prepare a written
36 statement signed under penalty of false statement describing the matter
37 requiring action, the nature of the conflict and explaining why, despite
38 the conflict, such official is able to vote or otherwise participate fairly,
39 objectively and in the public interest in such matter. Such official shall
40 submit a copy of such statement to the Office of State Ethics and enter a
41 copy of the statement in the journal or minutes of the state agency to
42 which such official has been elected, or, if such agency does not have a
43 journal or minutes, submit the copy to such agency.

44 Sec. 2. Subsection (a) of section 1-86 of the general statutes is repealed
45 and the following is substituted in lieu thereof (*Effective October 1, 2022*):

46 (a) For purposes of this section, "business with which the public
47 official or state employee is associated" has the same meaning as
48 "business with which he is associated", as provided in section 1-79. Any
49 public official or state employee, other than an elected state official, who,
50 in the discharge of such official's or employee's official duties, would be
51 required to take an action that would affect a financial interest of such
52 official or employee, such official's or employee's spouse, parent,
53 brother, sister, child, [or] the spouse of a child, employer other than the
54 state, employer of the official's or employee's spouse or a business with
55 which [such] the public official or state employee is associated, other
56 than an interest of a de minimis nature, an interest that is not distinct
57 from that of a substantial segment of the general public or an interest in
58 substantial conflict with the performance of official duties as defined in
59 section 1-85, as amended by this act, has a potential conflict of interest.
60 Under such circumstances, such official or employee shall, if such
61 official or employee is a member of a state regulatory agency, either
62 excuse himself or herself from the matter or, prior to taking official
63 action on the matter, prepare a written statement signed under penalty
64 of false statement describing the matter requiring action and the nature
65 of the potential conflict and explaining why despite the potential
66 conflict, such official or employee is able to vote and otherwise
67 participate fairly, objectively and in the public interest. Such public
68 official or state employee shall deliver a copy of the statement to the
69 Office of State Ethics and enter a copy of the statement in the journal or
70 minutes of the agency. If such official or employee is not a member of a
71 state regulatory agency, such official or employee shall, in the case of
72 either a substantial or potential conflict, prepare a written statement
73 signed under penalty of false statement describing the matter requiring
74 action and the nature of the conflict and deliver a copy of the statement
75 to such official's or employee's immediate superior, if any, who shall
76 assign the matter to another employee, or if such official or employee
77 has no immediate superior, such official or employee shall take such
78 steps as the Office of State Ethics shall prescribe or advise.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	1-85
Sec. 2	<i>October 1, 2022</i>	1-86(a)

GAE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

This bill: 1) expands what constitutes a substantial conflict of interest under the State Code of Ethics, 2) expands what constitutes a potential conflict of interest under the state Code of Ethics, and 3) makes various other technical changes. These changes are not anticipated to have a fiscal impact to the state or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**HB 5377*****AN ACT CONCERNING CONFLICTS OF INTEREST DUE TO AN EMPLOYER OTHER THAN THE STATE UNDER THE STATE CODE OF ETHICS.*****SUMMARY**

This bill expands what constitutes a substantial conflict of interest under the state Code of Ethics for Public Officials to include actions taken by a public official (including an elected state official) or state employee that result in a direct monetary gain or loss to his or her outside employer or spouse's employer. It requires elected state officials who have this conflict to either recuse themselves from taking official action or file a statement explaining why they can act despite the conflict. As under existing law, a substantial conflict does not exist if the monetary gain or loss is no greater than the gain or loss realized by any other member of the same profession, occupation, or group.

The bill similarly expands what constitutes a potential conflict of interest under the code to include actions taken by a public official (other than an elected state official) or state employee that would affect a financial interest of his or her outside employer or spouse's employer, other than one of a minimal nature or that is not distinct from that of a substantial segment of the general public. By law, officials and employees who have a potential conflict generally must either recuse themselves from taking official action or file a statement explaining why they can act despite the conflict.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2022

PROCEDURE IF CONFLICT EXISTS***Substantial Conflict***

Current law prohibits public officials and state employees from

taking official action on a matter for which they have a substantial conflict of interest. By deeming actions taken by a public official or state employee that result in a direct monetary gain or loss to an outside employer or spouse's employer as a substantial conflict of interest, the bill prohibits officials and employees from taking these actions, with one exception.

The bill's exception applies to substantial conflicts involving an elected state official's or spouse's outside employer. Specifically, if an elected state official has such a conflict, he or she must (1) excuse himself or herself from the matter or (2) prepare a written statement under penalty of false statement for the agency journal or minutes and the Office of State Ethics (OSE) before acting on the matter. The statement must describe the matter requiring action, the potential conflict, and why, despite the conflict, the official is able to vote and otherwise participate fairly, objectively, and in the public interest. By law, false statement is a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both (CGS § 53a-157b).

Potential Conflict

The bill requires officials and employees (other than elected state officials) who have a potential conflict of interest involving an outside employer to follow procedures in existing law for addressing potential conflicts of interest. If the official or employee is a member of a state regulatory agency, he or she must (1) excuse himself or herself from the matter or (2) prepare a written statement as described above. (The bill requires that this statement be prepared before taking action.)

Officials and employees who are not members of a regulatory agency must prepare a written statement under penalty of false statement that describes the matter requiring action and the potential conflict and deliver a copy to their immediate supervisor, who must reassign the matter, or OSE if they do not have an immediate supervisor. In this case, the official or employee must take steps that OSE prescribes or advises.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/29/2022)