

No. 1982-245

AN ACT

SB 1091

Amending the act of July 19, 1957 (P.L.1017, No.451), entitled "An act prohibiting advisors, consultants, officers and employes of the Commonwealth, the Pennsylvania Turnpike Commission and State authorities, from having adverse interests in certain contracts; prohibiting employes thereof from representing other persons in certain circumstances; and prescribing penalties," adding definitions and further providing for prohibited conduct.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of July 19, 1957 (P.L.1017, No.451), known as the "State Adverse Interest Act," is amended to read:

Section 2. The following terms shall have the following meanings, when used in this act:

(1) "State Agency." A department, board, commission or other part of the executive branch of the government of the Commonwealth or the Pennsylvania Turnpike Commission, the General State Authority or other State authority, created by a statute which declares in substance that such authority performs or has for its purpose the performance of an essential governmental function and that its bonds shall not pledge the faith or credit or be obligations of the Commonwealth.

(2) "State Advisor." A person who performs professional, scientific, technical or advisory service for a State agency or serves as a member of an advisory board, professional licensing board or similar part of a State agency, and who receives no compensation for his service other than reimbursement for expenses incurred by him in furnishing such service.

(3) "State Consultant." A person who, as an independent contractor, performs professional, scientific, technical or advisory service for a State agency, and who receives a fee, honorarium or similar compensation for such service.

(4) "State Employee." An appointed officer or employe in the service of a State agency, and who receives a salary or wage for such service.

(5) "Contract." A contract or arrangement for the acquisition, use or disposal by a State agency of services or of supplies, materials, equipment, land or other personal or real property. The term "contract" shall not mean an agreement between the Commonwealth or a State agency as one party and a State advisor, consultant or employe as the other party, concerning his expense, reimbursement, fee, salary, wage, retirement benefit, tenure or other matters touching his personal service to the Commonwealth or State agency.

(6) "Have an Adverse Interest." Be the party to a contract, as herein defined, other than the Commonwealth or a State agency or be a stockholder, partner, member, agent, representative or employe of such

party.]

(1) "Abstain." To recuse from influencing, attempting to influence, voting in, supervising or, in any manner, dealing with a contract in which there is an adverse interest.

(2) "Contract." A contract or arrangement for the acquisition, use or disposal by a State agency of services or of supplies, materials, equipment, land or other personal or real property. The term "contract" shall not mean an agreement between the Commonwealth or a State agency as one party and a State advisor, consultant or employe as the other party, concerning his expense, reimbursement, fee, salary, wage, retirement benefit, tenure or other matters touching his personal service to the Commonwealth or State agency.

(3) "Disclosure." To submit the material facts of an adverse interest in a contract to the State agency by which he is employed and to the party or agency which has a contract with the State agency by which he is employed.

(4) "Have an Adverse Interest." Be the party to a contract, as herein defined, other than the Commonwealth or a State agency or be a stockholder, partner, member, agent, representative or employe of such party.

(5) "Municipal Body." A locally elected or appointed governmental body, including but not limited to political subdivisions and authorities.

(6) "Municipal Officer." Persons who serve the public domain as an elected or appointed member of a municipal body.

(7) "State Advisor." A person who performs professional, scientific, technical or advisory service for a State agency or serves as a member of an advisory board, professional licensing board or similar part of a State agency and who receives no compensation for his service other than reimbursement for expenses incurred by him in furnishing such service.

(8) "State Agency." A department, board, commission or other part of the executive branch of the government of the Commonwealth or the Pennsylvania Turnpike Commission, the General State Authority or other State authority, created by a statute which declares in substance that such authority performs or has for its purpose the performance of an essential governmental function and that its bonds shall not pledge the faith or credit or be obligations of the Commonwealth.

(9) "State Consultant." A person who, as an independent contractor, performs professional, scientific, technical or advisory service for a State agency and who receives a fee, honorarium or similar compensation for such service.

(10) "State Employe." An appointed officer or employe in the service of a State agency and who receives a salary or wage for such service.

Section 2. The act is amended by adding a section to read:

Section 7.1. (a) Notwithstanding any other provisions of this act, a State employe who serves in an elected or appointed capacity as a municipi-

pal officer shall not be deemed to have an adverse interest by virtue of any action taken by the municipal body of which he is a member if he properly abstains and submits a disclosure.

(b) Whenever a municipal body would be unable to take any action on a matter before the municipal body because a majority of the members of the municipal body are required to abstain under the provisions of subsection (a), then such municipal officers shall be permitted to participate in the action and may vote on, supervise or otherwise deal with a contract if such municipal officers submit a disclosure to the municipal bodies and as otherwise provided herein.

Section 3. This act shall take effect immediately.

APPROVED—The 9th day of December, A. D. 1982.

DICK THORNBURGH