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House Bill 360 – Ethics and Accountability in Government Act

Testimony before the Environment and Transportation Committee

The State Ethics Commission strongly supports two specific provisions of HB 360 – Ethics and Accountability in Government Act, both of which amend the Public Ethics Law and are found in Section Three of the bill. The Commission takes no position on the remaining provisions of the bill as they address other laws not under the jurisdiction of the Commission.

With respect to the two changes affecting the Ethics Law, the bill proposes to do the following: 1) authorize the Commission to impose a fine not exceeding \$5,000 for each violation of the Ethics Law; and 2) apply the Law's prohibition on disclosing confidential information to former officials and employees. Both of these changes have been recommended by the Commission in one form or another in each of its Annual Reports for more than twenty years.

The Law currently authorizes the Commission to impose a fine not exceeding \$5,000 for each violation of the Public Ethics Law by a regulated lobbyist¹. However, with respect to State employees and officials, the Commission's ability to directly impose sanctions for violations of the conflicts of interest provisions is quite limited. The Commission may: 1) issue an order of compliance directing the respondent to cease and desist from the violation; 2) issue a reprimand; or 3) recommend to the appropriate authority other appropriate discipline if that discipline is authorized by law. In addition to the foregoing, the Commission may petition a circuit court with venue over the proceeding to impose a fine not exceeding \$5,000 per violation.

Providing the Commission with authority to directly assess civil penalties against State employees and public officials would offer a formal alternative to expensive and extended court proceedings and would give the Commission authority equal to the authority it presently has with regard to violations committed by lobbyists. Furthermore, it would provide an immediate sanction for conflicts of interest violations that would give the Commission a meaningful

¹ With respect to lobbyists, the Commission also has the authority in appropriate cases to suspend or revoke a lobbyist's registration.

deterrent that does not exist among the sanctions currently available to it.

As for the second issue, the Ethics Law prohibits current officials and employees from disclosing or using confidential information (defined as information acquired by reason of the official's or employee's public position and not available to the public) for personal economic benefit or for the economic benefit of another. While the Law contains a prohibition on certain post-employment situations for former officials and employees subsequent to their leaving the State, it does not extend the prohibition on the use of confidential information to them. If the concern is that individuals should not profit, or allow others to profit, from information not available to the entire public, that concern should apply to all officials and employees, current and former, who attempt to profit or allow others to profit in a similar way.

The Commission believes that making the two changes to the Law as discussed above will strengthen the Law by adding a meaningful option to the Commission's enforcement authority and providing consistency to the Law's prohibition on the use of confidential information by applying it to all who could violate it.