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LC01919
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

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A N A C T

RELATING TO PUBLIC OFFICES AND EMPLOYEES -- PUBLIC ACCOUNTABILITY
AND REFORM

Introduced By: Representatives Kilmartin, Moura, Sullivan, Jackson, and Church

Date Introduced: February 16, 2006

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative intent:

2 It is a priority of this legislature to ensure that Rhode Island citizens have the utmost
3 confidence in state government. In order to promote public confidence and to provide open and
4 honest government it is the further intent of this legislature to support transparency and
5 accountability in all aspects of government activity and to promote the highest standards of
6 ethical performance and accountability.

7 SECTION 2. This act shall be known and may be cited as the "Public Accountability and
8 Reform Act of 2006".

9 SECTION 3. Section 17-25.1-4 of the General Laws in Chapter 17-25.1 entitled
10 "Gambling Referenda" is hereby amended to read as follows:

11 **17-25.1-4. Reports.** -- Every "person" as defined in chapter 25 of this title, spending a
12 cumulative total of ~~five hundred dollars (\$500)~~ one hundred dollars (\$100) or more for the
13 purpose of advocating the approval or rejection of any gambling question, shall report each such
14 expenditure to the board of elections on a form prescribed by the board of elections not later than
15 ten (10) days after each expenditure is made. The report must include the name, address, principal
16 occupation, employer of the person filing the report, the name and address of the person or entity
17 receiving the expenditure, the amount of each expenditure, and the total amount of expenditures
18 made, at that date, by that person or entity during the calendar year. "Expenditures" shall include

1 the furnishing of or payment for any media advertising services or products, including, but not
2 limited to, newspapers, radio stations, television stations or electronic mail, general advertising,
3 in brochures, pamphlets and the like, advertising agency services, accounting services, billboards,
4 printing, secretarial services, public opinion polls, or research and professional campaign
5 consultation or management, media production, or computer services, which advocate a position
6 on a gambling question.

7 SECTION 4. Sections 17-27-2 and 17-27-3 of the General Laws in Chapter 17-27
8 entitled "Reporting of Political Contributions by State Vendors" are hereby amended to read as
9 follows:

10 **17-27-2. Affidavits required.** -- In connection with contracts for goods or services to be
11 provided at a cost of five thousand dollars (\$5,000) or more between a state vendor and a state
12 agency, whether written or unwritten, the state vendor shall execute, under oath, an affidavit
13 concerning reportable contributions pursuant to chapter 25 of this title. If the state vendor has,
14 within the twenty-four (24) months preceding the date of the contract, contributed an aggregate
15 amount in excess of two hundred fifty dollars (\$250) within a calendar year to any general
16 officer, any candidate for a general office, [any member of the general assembly or candidate for](#)
17 [the general assembly](#), or any political party; the state vendor shall file the affidavit with the board
18 of elections and shall list the name of the general officer, [member of the general assembly](#) or
19 candidate or political party, the amount and date of each contribution made during the preceding
20 twenty-four (24) months and the total gross amount, in dollars, of contracts entered into between
21 the state vendor and all state agencies during that period of time.

22 **17-27-3. Filing of affidavits.** -- (a) The affidavit required by section 17-27-2 shall be
23 filed, together with a copy of the contract or a written summary of the principal terms of the
24 contract, with the board of elections. If the contract is in writing, then the affidavit shall be filed
25 within sixty (60) days of the execution of the contract; if the contract is not in writing, then the
26 affidavit shall be filed within sixty (60) days of the date when the state vendor first is notified that
27 they have reached the five thousand dollar (\$5,000) threshold established by section 17-27-2.

28 (b) Notwithstanding the provisions of subsection (a) of this section, any state vendor
29 who has a reasonable belief that it would be required to make two (2) or more filings in any
30 calendar year pursuant to this section will be deemed to have satisfied its obligations under this
31 section if it files a notice certifying that belief with the board of elections and subsequently files
32 an affidavit meeting the requirements of this section on or before July 31 with respect to the
33 preceding six (6) months ending on June 30 and on or before January 31 for the six (6) month
34 period of the preceding year ending December 31.

1 (c) Parent, affiliate, or subsidiary entities of a state vendor which are required to report
2 pursuant to this chapter may do so in the form of a consolidated report which contains the
3 required information for both the vendor, its parent, subsidiary, or affiliated entity. All affidavits
4 filed by state vendors pursuant to this chapter shall be public documents.

5 (d) The board of elections shall maintain on its website a report of all vendors submitting
6 affidavits as required under this chapter which report shall include: the name of the vendor, a
7 summary description of the vendor contract, if written, or the services performed or goods
8 purchased and their cost, and the amount of reportable contributions pursuant to chapter 25 of this
9 title.

10 SECTION 5. Sections 22-10-9 and 22-10-10 of the General Laws in Chapter 22-10
11 entitled "Lobbying" are hereby amended to read as follows:

12 **22-10-9. Financial reports.** -- (a) (1) Every person that engages any person to act as a
13 lobbyist concerning legislative matters, and the lobbyist, shall individually file with the secretary
14 of state a complete and itemized report of all expenditures made for the purpose of lobbying,
15 including, but not limited to, advertising expenses and all compensation paid to the lobbyists for
16 lobbying-, and all campaign contributions to state and municipal elected officials and state
17 political action committees. The report shall also include any expenditure, gift, or honorarium of
18 twenty-five dollars (\$25.00) or more for each occurrence concerning any legislative or executive
19 official paid or incurred by the person who engages the lobbyist and the lobbyist. The report shall
20 include the names of the individuals receiving or in whose behalf the expenditures have been
21 made, and the reason, date, and place of the expenditures.

22 (2) Any function to which the entire membership of the general assembly, or of either
23 chamber or of any legally constituted legislative committee or commission within the general
24 assembly, is invited, which is sponsored by any person, corporation, or association having
25 engaged any person to act as a lobbyist, or by any lobbyist, shall be deemed a lobbying activity,
26 and any funds expended or incurred for that function shall be set forth in the financial report.

27 (3) The initial report shall be filed by the person, corporation, or association having
28 engaged any person to act as a lobbyist and by the lobbyist at the time of their initial registration,
29 and updated reports shall be filed with the secretary of state by the fifteenth (15th) day of each
30 month thereafter, beginning in March until the final adjournment of the general assembly. A final
31 report shall be filed no later than thirty (30) days after the final adjournment; provided, however,
32 in the year 2005, the first updated report filed under this subsection shall be filed by June 15th.

33 (4) All reports shall be on a form prescribed by the secretary of state, and the reports
34 shall be open for public inspection.

1 (5) In the event no compensation has been paid or received, and no expenses have been
2 paid or incurred, an annual statement to that effect may be filed with the secretary of state in lieu
3 of the report form.

4 (b) During any special session of the general assembly, every person, corporation, or
5 association that engages any person to act as a lobbyist, and every lobbyist so engaged, shall
6 register within twenty-four (24) hours of the commencement of the session. The initial financial
7 reports shall be filed within twenty-four (24) hours after the date of the employment for the
8 special session, and updated reports shall be filed every fourteen (14) days thereafter. The final
9 report shall be filed no later than seven (7) days after the date of adjournment.

10 (c) Not later than January 15 of each year, every lobbyist and every individual, firm,
11 business, corporation, association, partnership, or other group which employed a lobbyist or
12 engaged any person to act as a lobbyist or who was required to register with the office of
13 secretary of state during the preceding year pursuant to section 22-10-6 shall file with the
14 secretary of state a complete and detailed report of all money or anything of value which in the
15 aggregate exceeds two hundred fifty dollars (\$250) provided or promised to any major state
16 decision-maker or member of their immediate family or household within the preceding calendar
17 year. "Money" and "anything of value" in this subsection and in subsection (d) shall mean any
18 fee, salary, commission, expense allowance, forbearance, forgiveness, royalty, rent, capital gain,
19 gift, loan, reward, favors or services, gratuities or special discounts, or any other form of
20 recompense that constitutes income under the Federal Internal Revenue Code.

21 (d) Not later than January 15 of each year, every individual, firm, business, corporation,
22 association, partnership or other group specified in subsection (c) shall provide an exact copy of
23 the report required in subsection (c) to the Rhode Island ethics commission and to any major state
24 decision-maker to whom it provided or promised money or anything of value which in the
25 aggregate exceeds two hundred fifty dollars (\$250) within the preceding calendar year.

26 **22-10-10. Duties and powers of the secretary of state.** -- The secretary of state shall
27 have authority to perform any duties that are necessary to implement the provisions of this
28 chapter. Without limiting the generality of the foregoing, the secretary of state is authorized and
29 empowered to:

30 (1) Develop forms for the making of the required financial reports.

31 (2) Develop one register for legislative lobbyists and one register for limited activity
32 lobbyists.

33 (3) Adopt rules and regulations to carry out the purposes of this chapter.

34 (4) Prepare and make available for public inspection through the office of the secretary

1 of state summaries of all reports.

2 (5) Prepare and publish a manual for all persons, corporations, or associations which
3 engage any person as a lobbyist and for all lobbyists which sets forth the requirements of this
4 chapter.

5 (6) Ascertain whether any person, corporation, association, or lobbyist has failed to
6 register or file reports or has filed an incomplete or inaccurate report; and the secretary may, for
7 good cause shown, extend the dates upon which reports are required to be filed.

8 (7) Conduct investigations and/or hearings relative to alleged violations of this chapter
9 either on his or her own initiative or upon receipt of a verified written complaint, which
10 complaint shall, upon pain and penalty of perjury, be based upon actual knowledge and not
11 merely on information and belief. Upon completion of the investigation, if the secretary of state
12 has reason to believe that a violation has occurred, the secretary may convene a hearing for the
13 purpose of taking evidence and receiving testimony regarding the alleged violation. At this
14 hearing, the person alleged to have committed the violation shall be afforded the opportunity to
15 present evidence and offer testimony in his or her defense. Upon completion of the hearing, if the
16 secretary of state determines by a preponderance of the evidence that a violation has occurred, the
17 secretary shall order the lobbyist or person engaging a lobbyist to file any report or amended
18 report that is necessary to immediately correct the violation. If the secretary determines by clear
19 and convincing evidence that the violation was intentional and that the violator failed to comply
20 when given notice of the deficiency, then he or she may impose an administrative penalty as
21 provided in section 22-10-11(a). Any determination and/or administrative penalty imposed by the
22 secretary of state may be appealed by the aggrieved party to superior court pursuant to the
23 provisions of chapter 35 of title 42. If the secretary of state determines that the nature of the
24 violation was of such seriousness and willfulness as to warrant a criminal complaint, he or she
25 may refer the violation to the attorney general for prosecution as provided for in section 22-10-
26 11(b).

27 (8) Administer oaths.

28 (9) Prepare and publish annually by January fifteenth (15th), a report on lobbying in
29 Rhode Island to be submitted to the governor, the speaker of the house, the house majority leader,
30 the house minority leader and members of the ethics commission. The annual report shall include
31 information on lobbying activities as provided in sections 22-10-4, 22-10-5, 22-10-9, 42-139-3,
32 42-139-4, 42-139-5, and 42-139-6. The report shall be made available electronically on the
33 secretary of state's web-site.

34 SECTION 6. Sections 36-14-8, 36-14-10, 36-14-17 and 36-14-19 of the General Laws in

1 Chapter 36-14 entitled "Code of Ethics" are hereby amended to read as follows:

2 **36-14-8. Rhode Island ethics commission -- Establishment -- Members -- Vacancies -**
3 **- Quorum -- Compensation and quarters. --**

4 (a) There is hereby established an independent and
5 nonpartisan Rhode Island ethics commission composed of nine (9) members appointed by the
6 governor. The president of the senate, the minority leader of the senate, the speaker of the house
7 of representatives, the majority leader of the house of representatives, and the minority leader of
8 the house of representatives shall, within twenty (20) days of July 21, 1992, each submit to the
9 governor a list of names of at least five (5) individuals. The governor shall, within forty (40) days
10 of July 21, 1992, appoint one individual from each of the lists so submitted and four (4)
11 individuals without regard to the lists submitted by the legislative leaders.

12 (b) Members of the commission shall serve for terms of five (5) years, except that, of the
13 members first appointed:

14 (1) The individual appointed from the list submitted by the majority leader of the house
15 of representatives shall serve for one year;

16 (2) The individuals appointed from the lists submitted by the minority leader of the
17 senate and one of the individuals appointed by the governor without regard to the lists submitted
18 by the legislative leaders shall serve for two (2) years;

19 (3) The individual appointed from the list submitted by the minority leader of the house
20 of representatives and one of the individuals appointed by the governor without regard to the lists
21 submitted by the legislative leaders shall serve for three (3) years;

22 (4) The individual appointed from the list submitted by the president of the senate and
23 one of the individuals appointed from the list submitted by the minority leader of the house of
24 representatives shall serve for four (4) years; and

25 (5) The individual appointed from the list submitted by the speaker of the house of
26 representatives and one of the individuals appointed from the list submitted by the minority leader
27 of the senate shall serve for five (5) years.

28 (c) No member shall be appointed for more than one full five (5) year term; provided,
29 however, that each member shall continue to serve until his or her successor is appointed and
30 qualified; and, provided further, that if, at the time of the expiration of any member's term, that
31 member is actively engaged in the adjudication of a complaint, he or she shall continue to serve in
32 that capacity until the commission has completed its responsibilities with respect to that
33 complaint.

34 (d) The governor shall, at the time of the initial appointments to the commission,
designate one member to act as chairperson of the commission for a period of one year and

1 another to act as vice chairperson of the commission for a period of one year. Thereafter, the
2 commission shall elect a chairperson and a vice chairperson. The vice chairperson shall act as
3 chairperson in the absence of the chairperson or in the event of a vacancy in that position.

4 (e) Any vacancy on the commission, occurring for any reason prior to the expiration of
5 the term, shall be filled for the unexpired term by the appointing authority in the same manner as
6 the original appointment within thirty (30) days of the vacancy occurring.

7 (f) No individual, while a member or employee of the commission, including any legal
8 counsel engaged by the commission, shall:

9 (1) Hold or campaign for any other public office;

10 (2) Hold office in any political party or political committee;

11 (3) Participate in or contribute to any political campaign;

12 (4) Directly or indirectly attempt to influence any decision by a governmental body,
13 other than as the duly authorized representative of the commission on a matter within the
14 jurisdiction of the commission [or be the business associate \(as defined in subsection 36-14-2\(3\)\)](#)
15 [of a registered lobbyist \(as defined in section 22-10-2 and section 42-139-2\)](#);

16 (5) Have held elective public office or have been a candidate for elective public office
17 for a one year period prior to appointment.

18 (g) The governor shall declare vacant the position on the commission of any member
19 who takes part in activities prohibited by subsection (f) of this section. An individual appointed to
20 fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the
21 unexpired term of the member he or she succeeds, and is eligible for appointment to one full five-
22 year term thereafter. Any vacancy occurring on the commission shall be filled within thirty (30)
23 days in the manner in which that position was originally filled.

24 (h) For any action to be taken under the terms of this chapter by the full commission,
25 five (5) members of the commission shall constitute a quorum.

26 (i) Commission members shall not be compensated for attendance at meetings of the
27 commission or of any investigating committee or adjudicative panel of the commission.

28 (j) All departments and agencies of the state or of any city or town or political
29 subdivision within this state shall furnish such advice or information documentary or otherwise,
30 to the commission and its agents as is deemed necessary or desirable by the commission to
31 facilitate the purposes of this chapter.

32 (k) The director of administration is hereby authorized and directed to provide suitable
33 quarters for the commission.

34 (l) When commission members act in good faith within the scope of their authority and

1 in their official capacities they shall be afforded protection against civil liability as provided in
2 section 9-1-31.1.

3 **36-14-10. Educational powers of the commission.** -- (a) The commission is hereby
4 empowered to establish and implement an educational program for the purpose of educating
5 public officials and employees and the general public about the ethical standards embodied in the
6 Rhode Island code of ethics in government, which program may include the preparation and
7 dissemination of brochures, other publications and the conduct of workshops and seminars. In
8 addition, on or before the first day of April of each odd-numbered year, the commission shall
9 provide a program on ethics education, including, but not limited to, instruction on codes of
10 ethics, conflicts of interest and lobbying activities and reporting as required pursuant to chapters
11 22-10, 36-14 and 42-139 for major state decision makers and lobbyists as defined in section 22-
12 10-2 and 42-139-2.

13 (b) The educational program authorized by this section shall be established by the
14 commission in the exercise of the rulemaking authority conferred by section 36-14-9(a)(3).

15 (c) The commission may, by rule or regulation, delegate to its executive director (or
16 other designated employee) such authority as it may deem necessary for the implementation of
17 the educational program authorized by this section.

18 **36-14-17. Content of financial statement.** -- (a) The financial statement required herein
19 shall be on a form prescribed by the commission and shall include the account of the financial
20 activity of the person required to file the statement by this chapter, the financial activity of his or
21 her spouse (if not estranged), and any dependent children for the preceding calendar year.

22 (b) The account of financial activity referred to in subsection (a) of this section shall
23 consist of:

24 (1) If he or she or any person enumerated in subsection (a) of this section or a business
25 entity in which he or she or any person enumerated as aforesaid held a ten percent (10%) or
26 greater equity interest or five thousand dollars (\$5,000) or greater cash value interest at any time
27 during the calendar year for which the statement is required has done business with a state or
28 municipal agency or a business which is subject to direct regulation greater than of a de minimus
29 nature by a state or municipal agency, and if so, the date and nature of the business;

30 (2) A list of all sources of occupational income identified by employer or, if self
31 employed, by the nature of occupation or profession, and if income was received from a state or
32 municipal agency, the name and address of the agency and the nature of the services rendered;
33 provided, general officers, as defined in section 17-2-1, shall list all sources and amounts of
34 income;

1 (3) A listing of all real property in which a financial interest was held; however, this
2 section shall not apply to real property used exclusively as his or her principal residence;

3 (4) Identification of any interested person from whom the person or his or her spouse (if
4 not estranged) or any dependent child received a gift or contribution of money or property in
5 excess of one hundred dollars (\$100) in value or a series of gifts or contributions of money or
6 property, the total of which exceeds one hundred dollars (\$100) in value received from the same
7 source, and a description of each gift or contributions, except those received from persons related
8 to the person at any time within the third degree of consanguinity or affinity and campaign
9 contributions which were reported as required by law, for purposes of this subsection, "interested
10 person", means a person or a representative of a person or business that has a direct financial
11 interest in a decision that the person subject to the Code of Ethics is authorized to make, or to
12 participate in the making of, as part of his or her official duties;

13 (5) Identification of the source of all income received as beneficiary of a trust and
14 identification of each asset, if known to the beneficiary, from which income was received by the
15 beneficiary in excess of one thousand dollars (\$1,000);

16 (6) A list of all boards of directors of which the person is a member and executive
17 positions which he or she holds in any business entity, stating the name and address of each
18 business entity;

19 (7) The name and address of any business entity in which he or she or any person
20 enumerated in subsection (a) of this section held a ten percent (10%) or greater equity interest or
21 five thousand dollars (\$5,000) or greater cash value interest in at any time during the calendar
22 year for which the statement is required; and

23 (8) (i) Identification of any person, business entity, financial institution or other
24 organization to whom the person was indebted at any time during the calendar year for which the
25 statement is required in an amount in excess of one thousand dollars (\$1,000) other than:

26 (A) Any person related to the person at any time within the third degree of consanguinity
27 or affinity; or

28 (B) Any transactions involving credit cards; or

29 (C) Any indebtedness to a financial institution, licensed and regulated by any state or by
30 the United States, which is secured solely by a mortgage of record on real property used
31 exclusively as the principal residence of the person required to file the statement.

32 (ii) This section does not require the reporting of the amount or amounts of the
33 indebtedness or the payment record of the loans.

34 (c) The financial statement shall be sworn to under oath.

1 **36-14-19. Penalties.** -- Any person who knowingly and willfully violates the provisions
2 of this chapter shall, in addition to the civil penalties provided herein, be guilty of a misdemeanor
3 punishable by a fine of not more than ten thousand dollars (\$10,000) and/or imprisonment for not
4 longer than five (5) years. ~~one thousand dollars (\$1,000) and/or imprisonment for no longer than~~
5 ~~one year.~~

6 SECTION 7. Chapter 36-14 of the General Laws entitled "Code of Ethics" is hereby
7 amended by adding thereto the following section:

8 **36-14-10.1. Mandatory ethics education – Penalty for violations.** – (a) Every major
9 state decision-maker and lobbyist as defined in sections 22-10-2 and 42-139-2 shall participate in
10 an ethics education program provided by the ethics commission within six (6) months of being
11 sworn into office. Any major state decision-maker or lobbyist who fails to participate in an ethics
12 education program within six (6) months of being sworn into office shall be subject to an
13 administrative penalty of one hundred dollars (\$100) per month, not to exceed one thousand
14 dollars (\$1,000), until completion of the program.

15 SECTION 8. Section 42-139-6 of the General Laws in Chapter 42-139 entitled
16 "Executive Branch and Public Corporation Lobbying" is hereby amended to read as follows:

17 **42-139-6. Financial reports.** -- (a) (1) Every person, corporation, or association that
18 engages any person to act as a lobbyist concerning executive or public corporation matters, and
19 the lobbyist, shall individually file with the secretary of state a complete and detailed report of all
20 compensation paid to the lobbyist for lobbying, and all campaign contributions to state and
21 municipal elected officials and state political action committees. The report shall include
22 ~~including~~ the total amount expended for lobbying purposes, and an itemization of any
23 expenditure, gift, or honorarium of twenty-five dollars (\$25.00) or more for each occurrence paid
24 or incurred by the person, corporation, or association or lobbyist for the specific purpose of
25 promoting or opposing in any manner action by members of the executive branch or of public
26 corporations. These reports shall include the names of the persons receiving or in whose behalf
27 the expenditures have been made, and the reason, time, and place of the expenditures.

28 (2) The initial report shall be filed by the person, corporation, or association having
29 engaged any person to act as a lobbyist and by the lobbyist at the time of their initial registration,
30 and updated reports shall be filed with the secretary of state semi-annually. The updated reports
31 shall be filed no later than thirty (30) days after the end of each reporting period, and shall include
32 expenditures for the period from January 1 through June 30, and July through December 31,
33 respectively.

34 (3) All reports shall be on a form prescribed by the secretary of state, and the reports

1 shall be open for public inspection.

2 (4) In the event no compensation has been paid or received, and no expenses have been
3 paid or incurred, an annual statement to that effect may be filed with the secretary of state in lieu
4 of the report form.

5 SECTION 9. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC OFFICES AND EMPLOYEES -- PUBLIC ACCOUNTABILITY
AND REFORM

1 This act would create the Public Accountability Act of 2006 which is intended to promote
2 public confidence, to provide an open and honest government, and to support transparency and
3 accountability in all aspects of government activity in order to promote the highest standards of
4 ethical performance and accountability.

5 This act would take effect upon passage.

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