

# Bill Information - History

## House Bill 75; Regular Session 1989-1990

**Sponsors:** [BLAUM](#), [DeWEESE](#), [O'DONNELL](#), [BORTNER](#), [KUKOVICH](#), [McHALE](#), [CALTAGIRONE](#), [ITKIN](#), [HECKLER](#), [MOEHLMANN](#), [COWELL](#), [HAGARTY](#), [VEON](#), [HAYDEN](#), [JOSEPHS](#), [KOSINSKI](#), [RITTER](#), [PRESSMANN](#), [ARGALL](#), [BATTISTO](#), [BOWLEY](#), [BUNT](#), [BUSH](#), [CAWLEY](#), [COHEN](#), [COLAFELLA](#), [COLAIZZO](#), [DeLUCA](#), [DIETTERICK](#), [DORR](#), [FARGO](#), [FOX](#), [FREEMAN](#), [HALUSKA](#), [HASAY](#), [HERMAN](#), [JAROLIN](#), [LaGROTTA](#), [LEVDANSKY](#), [LINTON](#), [MILLER](#), [MICHLOVIC](#), [MORRIS](#), [MRKONIC](#), [MARKOSEK](#), [PETRONE](#), [PISTELLA](#), [RUDY](#), [RYBAK](#), [SERAFINI](#), [D. W. SNYDER](#), [STABACK](#), [STUBAN](#), [TANGRETTI](#), [E. Z. TAYLOR](#), [TIGUE](#), [VAN HORNE](#), [WAMBACH](#), [WOGAN](#), [J. L. WRIGHT](#), [CAPPABIANCA](#), [MELIO](#), [McVERRY](#), [BELARDI](#), [KASUNIC](#), [MAINE](#), [S. H. SMITH](#), [SCRIMENTI](#), [BISHOP](#), [LANGTRY](#) and [BROUJOS](#)

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**Short Title:** An Act reenacting and amending the act of October 4, 1978 (P. L. 883, No. 170), referred to as the "Public Official and Employee Ethics Law," adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; and making an appropriation.

**Actions:**

- Referred to JUDICIARY, Jan. 24, 1989
- Reported as amended, Feb. 1, 1989
- First consideration, Feb. 1, 1989
- Laid on the table, Feb. 1, 1989
- Removed from table, Feb. 1, 1989
- Re-committed to APPROPRIATIONS, Feb. 1, 1989
- Re-reported as amended, Feb. 13, 1989
- Second consideration, Feb. 13, 1989
- Amended, Feb. 14, 1989
- (Remarks see House Journal Page [242-264](#)), Feb. 14, 1989
- Third consideration, with amendments, Feb. 15, 1989
- Final passage, Feb. 15, 1989 (191-1)
- (Remarks see House Journal Page [287-303](#)), Feb. 15, 1989
- In the Senate
- Referred to RULES AND EXECUTIVE NOMINATIONS, Feb. 23, 1989
- Reported as amended, May 23, 1989
- First consideration, May 23, 1989
- Second consideration, May 24, 1989
- Re-referred to APPROPRIATIONS, May 24, 1989
- Re-reported as amended, June 12, 1989
- Third consideration and final passage, June 13, 1989 (50-0)
- (Remarks see Senate Journal Page [733-733](#)), June 13, 1989
- In the House

Referred to RULES, June 13, 1989

Reported as committed, June 13, 1989

House concurred in Senate amendments, June 14, 1989 (199-1)

(Remarks see House Journal Page 1036-1038), June 14, 1989

Signed in House, June 14, 1989

Signed in Senate, June 19, 1989

In hands of the Governor, June 19, 1989

Last day for action, June 29, 1989

Approved by the Governor, June 26, 1989

Act No. 9 of 1989, June 26, 1989

\* denotes current Printer's Number

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### BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 75, PN 470**, entitled:

An Act reenacting and amending the act of October 4, 1978 (P. L. 883, No. 170), referred to as the "Public Official and Employee Ethics Law," adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; and making an appropriation.

On the question,

Will the House agree to the bill on third consideration?

Mr. BLAUM offered the following amendment No. A0284:

Amend Sec. 1 (Sec. 2), page 7, lines 10 and 11, by inserting a bracket before "A" in line 10 and after "children." in line 11 and inserting

A parent, spouse, child, brother or sister.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum, on the amendment.

Mr. BLAUM. Thank you, Mr. Speaker.

In the bill as originally drafted, it defined "immediate family" as one's spouse, children, brothers, sisters, mother, father, and like relatives-in-law. That is for the purposes of the definition of "conflict of interest," meaning you cannot use the authority of your office to obtain a private pecuniary benefit for any member of your immediate family. The bill as originally drafted, I repeat, defined "immediate family" as your spouse, children, brother, sister, mother, father, and like relatives-in-law. That was amended in the legislative process back to the current definition which is currently in the law as spouse and minor dependent children.

The purpose of HB 75 is to wring out as many conflicts of interest as we possibly can out of the everyday lives that we have to lead. By expanding the definition of "immediate family," we believe we can wring out an awful lot of conflicts of interest which confront us as public officials.

The amendment you have before you is our effort to compromise on the definition of "immediate family." The original language in the bill included like relatives-in-law. Our amendment 284 drops your in-laws, drops your in-laws, and just will include in the definition of "immediate family" your parents, spouse, children, brothers, or sisters.

I ask for the approval of the members of the House.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell, on the amendment.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, in considering this amendment and this change from the current law, it might be useful to understand why the definition was more narrowly stated in the law as it was originally established some 10 years ago.

At that point, you might recall, those who were present at that point, the financial disclosure requirements pertaining to

the filing of a statement were going to be made applicable to public officials as well as members of the immediate family, certain kinds of information that would have to be disclosed. Subsequent court decisions ruled that the financial disclosure requirements would not be applicable to members of the immediate family. I remind you that we narrowly interpreted "immediate family" 10 years ago to restrict the kind of information that would have to be disclosed under the financial disclosure requirements. That is no longer a relevant issue because of that court decision. It is a moot point.

...So I would argue that it is now appropriate to more broadly define "immediate family" and would urge that we concur in the amendment that has been offered by Representative Blaum at this time. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Pistella.

Mr. PISTELLA. Mr. Speaker, on the amendment, interrogation of the sponsor of the amendment.

The SPEAKER. The gentleman, Mr. Blaum, indicates that he will consent to interrogation. You may proceed, Mr. Pistella.

Mr. PISTELLA. Under your proposed amendment, Mr. Speaker, am I to understand that the brothers and sisters of elected officials are considered to be members of the immediate family and that they must in turn file ethics reports?

Mr. BLAUM. Pardon me, Mr. Speaker? I cannot hear you.

Mr. PISTELLA. My question is, am I to understand from your amendment that brothers and sisters of elected officials are to file ethics reports?

Mr. BLAUM. No; not at all. And to even clarify further, what it says—and I think it is important that we all understand what it says—what it says is, you cannot use the authority of your office—meaning the authority of your office as defined in the bill—you cannot use the authority of your office, which is that which is unique to your position. What this would prevent is it would prevent you from voting on a contract. It would prohibit you from hiring a member of your immediate family on your payroll. It would prohibit you from hiring, directly yourself, your parents, spouse, children, brothers, or sisters. It does not prevent them from working in government in other fields. It does not prevent them from conducting business with government agencies. What it says is you cannot use the influence, the power of your office, the authority of your office, your vote, or your direct ability over hiring and firing—that is it—to in any way obtain a private pecuniary benefit for those people defined in this amendment.

Mr. PISTELLA. The confusion was the private-pecuniary-benefit portion of your explanation earlier, which served the point of confusion. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Washington County, Mr. Lescovitz, on the amendment.

Mr. LESCOVITZ. Thank you, Mr. Speaker.

Would Mr. Blaum stand for interrogation?

The SPEAKER. The gentleman, Mr. Blaum, has indicated he will consent to interrogation. You may proceed.

Mr. LESCOVITZ. Thank you, Mr. Speaker.

Mr. Speaker, your definition of "immediate family" then is expanded from something more than what the IRS (Internal Revenue Service) actually rules as "immediate family." Is that correct?

Mr. BLAUM. Our definition of "immediate family" is similar to other definitions of "immediate family" found in law. In HB 75 as originally drafted, we included parents, spouse, children, brothers, sisters, and like relatives-in-law. In my amendment I have dropped the in-laws in an effort to obtain some degree of compromise, so that we could have a strong definition of "immediate family" and, once again, to wring out as many possibilities of conflict of interest which confront us on a day-to-day basis.

Mr. LESCOVITZ. But, Mr. Speaker, is it still broader than what the IRS rules as "immediate family"? I know last year under the Senate version of the bill they limited "immediate family" to whatever the Internal Revenue Service designated as "immediate family."

Mr. BLAUM. What the Senate did on November 30 I think is a perfect example of what we do not want to do here today. What the Senate did was they said that the people that you use for deductions on your tax form, meaning the people that live inside your home, that is who would be covered by the definition of "immediate family." That has nothing to do with attempting to limit the incidents of conflict of interest that we, as public officials, face. The question is, should you be able to use the direct power of your office, meaning the votes we cast, or our direct ability and power, however limited it may be, over hiring and firing to benefit any of these people? That is the question. It has nothing to do with paying taxes, and that smokescreen which was created by the Senate on November 30 is totally inappropriate to what we are discussing here today.

Mr. LESCOVITZ. Okay. Mr. Speaker, one more question then, and that brings me to a point which you mentioned just a few seconds ago relating to helping someone who is an immediate family member in getting a job. Under this legislation and the definition you have of "immediate family," now are we going to be prohibited from trying to influence someone by writing a letter to the Governor's Office, writing a letter to a business person for an immediate family person in helping them obtain a position?

Mr. BLAUM. No. What it does, once again, is it would limit your power that you have to vote for or against contracts, for or against anything which might benefit a member of your immediate family. It would prohibit that. Any direct authority you have to hire or fire, it would prohibit that. Does it prohibit? Can we prohibit? Can we deny somebody their constitutional rights to work anywhere else in government? No, as long as that decision is being made by someone else, be it in government, be it in business. Are you prohibited from recommending? No. That is not the intent of the legislation; never was.

Mr. LESCOVITZ. I guess you answered my question. We are allowed to try to influence, but we cannot directly hire

someone who is an immediate family member. But we can still, by recommending in letters, still try to influence someone to hire an immediate family member.

Mr. BLAUM. The only restriction is, you cannot use your power to bring about the outcome. Can you recommend, can you talk to, can you suggest, can you ask for help? Yes. But can you hire someone on your staff who is a member of your immediate family? No. Can you vote for something which would bring about a private economic benefit? No. They are the limitations.

Mr. LESCOVITZ. Thank you, Mr. Speaker.

Just one comment, Mr. Speaker.

The SPEAKER. The gentleman has completed his questioning and is in order on the amendment.

Mr. LESCOVITZ. Yes, Mr. Speaker, I am finished with my interrogation.

Mr. Speaker, I do not have any problems with broadening the definition of "immediate family." I am just not sure Mr. Blaum's explanation concerning influencing the hiring of immediate family is correct under HB 75. But Mr. Blaum's legislative intent, I believe, is that an elected official can still try to influence a person into hiring a relative but you cannot immediately hire that individual or, by your direct action of voting, you cannot influence the hiring of an individual. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Montgomery, Mr. Reber, on the amendment.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, would the sponsor of the amendment stand for interrogation?

The SPEAKER. The sponsor indicates that he will stand for interrogation. You may proceed.

Mr. REBER. Mr. Speaker, in your initial explanation of the amendment, you made reference to the "'conflict' or 'conflict of interest'" section of the bill on page 5. Is it not true that at the current time under the Pennsylvania Ethics Law, there is no definition of "conflict" or "conflict of interest" in the act?

Mr. BLAUM. I believe that is true, yes.

Mr. REBER. Now, Mr. Speaker, in your initial statements you stated that the language relative to "immediate family" is referred to in that definition section regarding "'conflict' or 'conflict of interest.'" Is that not correct?

Mr. BLAUM. Yes.

Mr. REBER. Is there any other area in HB 75 where "member of his immediate family" or "immediate family" is referred to so as to trigger the definition section that you are now modifying?

Mr. BLAUM. I do not believe so.

Mr. REBER. So then it is fair to say that if we are going to deal with the "immediate family" definition, which you are attempting to expand by this, it is an expansion of that definition and an application of that definition solely within the "'conflict' or 'conflict of interest'" definition section of the act as it may pertain to that, as you have been explaining with other individuals under interrogation.

Mr. BLAUM. Correct.

Mr. REBER. Now, changing gears a little bit.

Mr. Speaker, if a public official is desirous of making sure he does not run afoul of the "'conflict' or 'conflict of interest'" section, what conduct, if any, must he monitor of members of his immediate family?

Mr. BLAUM. As it is written into the bill, a person cannot do something which would provide an economic benefit to any member of the immediate family or a business with which they are related. I would suppose that they would, you know, be aware of possibly the businesses where their immediate families are possibly employed.

Mr. REBER. If I understand your response then, Mr. Speaker, it would seem to me that a public official or a public employee who falls within the purview of this act necessarily does not have to monitor activities of his immediate family unless he himself in some way uses the authority of his office or uses confidential information or in some other way he himself is involved in a transaction which inures to the benefit of those defined members of the immediate family. Is that a fair statement?

Mr. BLAUM. Yes; it is.

Mr. REBER. Now, Mr. Speaker, a public official or a public employee. In the "'conflict' or 'conflict of interest'" section it references "...or a business with which he or a member of his immediate family is associated." I am referring to lines 6 and 7 on page 5.

What, if anything, must a public employee or a public official do if in fact a business of a member of his immediate family in some way, shape, or form contracts with a governing body or an agency of which that individual is a member? What does he have to do to allow this process to be bona fide, legally or otherwise in compliance with the law, to carry out its various desires to a fruition end, if you will, so there is no violation?

Again, what disclosure, if any, or what recusement, if you will, must that public official and public employee do so he is not in violation of a conflict of interest under this act?

Mr. BLAUM. I think three things. I think the public official probably, if they have a vote on the matter, would have to abstain; number two, I think the public official would have to refrain from trying to influence the members of the board of commissioners, of the city council, to vote his way; and I think he would have to refrain from any trading of votes - you know, I have to abstain, you guys vote for this; the next time you have to abstain, I will vote for you. I think they are the three things that he would have to excuse himself from so as to not run afoul of the Ethics Act.

But perhaps another thing he could do would be to contact the Ethics Commission and ask for an opinion, which they would supply to him in 14 days. If he does not have 14 days, I think the three things I mentioned would suffice.

Mr. REBER. Mr. Speaker, let us assume for the sake of argument a public official, male, has a sister who is employed by General Motors. General Motors, among other individuals, is involved in a bidding contract with the governing body

of which that public official is a member. That sister is a clerk-typist for General Motors. Can that individual vote in an affirmative or a negative fashion, in essence take action, on a bid with that business which his sister is associated with in the capacity of a secretary and not run afoul of this particular act?

Mr. BLAUM. To the extent that it benefits a class of people or a class of whatever, yes. But if it would present some conflict under the terms of the law, if the person's spouse was the clerk-typist, it may very well present a problem and that person would excuse himself from the deliberations.

Mr. REBER. With all due respect, Mr. Speaker, I think we were on the same wavelength for a considerable period of this discussion; now I am starting to get a little concerned. And I do not say this with any disrespect; I say it with a concern that I see the penumbra, if you will, of arguments that might emanate from this "'conflict of interest'" section, and frankly, I think that is the reason why I find some concern to make sure each and every public official, each and every public employee, knows where he does or does not stand, especially in this associated-business practice.

Mr. Speaker, is there a necessity for that particular member of the immediate family to receive some kind of benefit in order for the conflict to arise? Or in the case of the General Motors secretary example that we talked about, it would be pretty far removed to find some benefit working its way down through the corporate ladder and the personnel rungs of a major, or for that matter a minor, corporation to some lower level employee on the scale, and I am just wondering where we draw the line or where we do not draw the line when we are plugging this in to the immediate family.

I suspect my biggest concern is, I may not even know the relationships my parent or a parent might have; I may not even know the relationships with a business my sister or brother might have; and I daresay, there are some of us may not even know the relationships our spouses might have with businesses. I am just wondering where we draw the line so we know to disclose in full conformity with the act, and any assistance you can provide to me or any other member for the benefit of all public employees and all public officials would be greatly appreciated.

...I would ask for some possible response to that under interrogation, Mr. Speaker.

Mr. BLAUM. Was that a question?

The SPEAKER. Does the gentleman understand the question?

Mr. BLAUM. No. I did not know if it was a question.

I think the language is clear and, you know, has been there for 2 years, and I understand the problems. In my district I know of a problem that it will present for me. My wife is a nurse at a hospital, and that hospital is going to be involved in some businesses. You know, what can I do? And I have to be careful and to excuse myself from anything that would be a benefit. If we do not want that in the law, then that is what amendments are for. But the way it reads right now, that is what it says.

Mr. REBER. Mr. Speaker, I think— And again continuing under interrogation, Mr. Speaker.

The SPEAKER. The gentleman is in order and may proceed.

Mr. REBER. Initially, Mr. Speaker, I thought the main issue that we were concerned about was where in fact the public official or the public employee was in some way doing something affirmative, directly or indirectly, whereby he had knowledge or should have had constructive knowledge of the fact that his activities were in some way, shape, or form benefiting a member of the defined "immediate family." Is that the test? Is that the basis for the test which a public employee, public official, should be guided with?

Mr. BLAUM. The test is at the top of page 5, "conflict of interest." "Use by a public official or public employee of the authority of his office"—"authority of office" is defined in the bill—"the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated." That is the test.

Mr. REBER. So the test then would be, as you say, he has to directly or indirectly take some action or refrain from taking some action that will trigger some form of benefit that you just specifically delineated in that definition which would inure to the benefit of the immediate family.

Mr. BLAUM. Yes, Mr. Speaker. He would have to use the authority of his office, and that is defined on page 3. As you know from those meetings in the summer of 1987, we tried to define "authority of office" to make it crystal clear so that you could not by accident run afoul of it. We want to specifically, as I said under questioning from Representative Lescovitz, we want it to be crystal clear: "Authority of office...The actual power provided by law, the exercise of which is necessary to the performance of duties and responsibilities unique to a particular public office or position of public employment." Unique; the actual power; not, you know, recommending, suggesting letters of recommendation, but the actual power.

Now, on a board of commissioners, a city council, a township board, that would be your vote. They also have the power to abstain. I would think in my mind that in addition to abstaining, you also better not, because the commission as a whole is one entity, you also, while you are abstaining, better not try to influence your fellow councilmen. Those are two things, and no trading of votes - those are the three things that I think would protect you.

We tried to make it very clear under the definition of "authority of office," and I think if everybody reads the definition of "authority of office" on page 3, they are going to know that it is very specific. So if you do violate this, I mean, you were working at it. We do not want anybody to do it by accident.

Mr. REBER. Thank you, Mr. Speaker.

That concludes my interrogation. I would just like to be recognized for a very brief statement.

The SPEAKER. The gentleman is in order.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I share the same identical concerns of the maker of the amendment. I also think that with his dialogue we have certainly come to a meeting of the minds as to the very specific language to which this is to be applicable. I think it is very important for the members of this body, since their actions are covering a number of public officials and public employees, to make it crystal clear as to the specificity of activities that are prohibited by them, which is construed now to be a conflict of interest, as well as activities that would be a conflict of interest as they inure to the members of the immediate family.

Thank you very much, and I would support the amendment.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

Very briefly, I rise to support the Blaum amendment, I think for all of the reasons that have been very eloquently set forth in response to extensive interrogation. The prohibitions that are brought into play by the use of this expanded definition are very narrow, very specific, are not going to sneak up and blind-side anybody, and they are in fact the essential prohibitions that should apply to public conduct with regard to one's parent, spouse, child, brother, or sister.

I would urge the adoption of the amendment.

The SPEAKER. The Chair recognizes the gentleman from Lehigh County, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

The SPEAKER. Will the gentleman suspend.

## FILMING PERMISSION

The SPEAKER. The Chair has granted permission to television station WPVI and John Sanks, who is in the right aisle, to film on the floor of the House for the next 10 minutes.

## CONSIDERATION OF HB 75 CONTINUED

The SPEAKER. The gentleman from Lehigh, Mr. McHale, is recognized on the amendment.

Mr. McHALE. Thank you again, Mr. Speaker.

Mr. Speaker, I rise in support of the Blaum amendment.

In my view, Mr. Speaker, the public should be secure in the belief that an elected official will use the power of his office solely to benefit the public interest and not to benefit financially any member of his family. Under the existing language contained in the bill, a public official could openly and aggressively use the power of his office to benefit his own child so long as that child was an adult and financially independent. I think most members of the public would find such exercise of authority and power unacceptable. I believe that we should find it to be unacceptable.

By contrast, a much higher standard is set and realistically set in the Blaum amendment. We say in the Blaum amendment that no public official may use his official authority or power of office to benefit his child, whether that child is an adult or a minor. I think that the public is entitled to believe—

The SPEAKER. Will the gentleman suspend.

So we do not waste an awful lot of time, I am going to say it once: The question is on the amendment. The amendment removes certain people from the bill. We are not debating the bill.

The gentleman is in order on the amendment.

Mr. McHALE. Thank you, Mr. Speaker.

I believe that with the adoption of the Blaum amendment, we will once again cover not only minor children but adult children. It guarantees the objectivity of an elected official, and I think that is the way it should be. Thank you, Mr. Speaker.

The SPEAKER. The Speaker reads the amendment as removing in-laws from the purview of the section under debate. The question is on that question and that question alone.

On that question, the question of the amendment, the Chair recognizes the gentleman from Montgomery, Mr. Gladeck.

Mr. GLADECK. Mr. Speaker, I would like to interrogate the speaker for a brief time, if I may, please.

The SPEAKER. The gentleman indicates he will be interrogated. You may proceed.

Mr. GLADECK. Mr. Speaker, I just need a brief clarification; I was not quite clear. I could not hear the debate with Representative Lescovitz.

Could you tell me if this amendment would prohibit a legislator or Senator from recommending a sibling, a stepmother, a stepfather, a stepchild, a stepbrother, or a stepsister for a position of employment in State Government?

Mr. BLAUM. Let me say this—

The SPEAKER. Will the House be at ease.

The Chair apologizes to the gentleman, Mr. McHale. His remarks were on the amendment. I was confused by the debate.

The gentleman, Mr. Blaum, may proceed with the answer to the question.

Mr. BLAUM. I would say for the purposes of this law, and I am a public official, that I am going to read it, that I would read it, to include stepmother, stepfather, stepbrother, stepsister. For my purposes, that is what I would do. To go beyond that, if that does not satisfy, again, if the situation ever occurs where you are about to convey some private pecuniary benefit on your stepbrother, you know, I think before you do that, you ask the Ethics Commission to give you an advisory opinion. In 14 days they have to provide it to you, and you solve your problem that way. But until then, until then, I would read it as if it said stepmother, stepfather, stepbrother, stepsister, step-anybody.

Mr. GLADECK. Would that mean it would be okay then for us to write a letter on behalf of these individuals for them to get a position in State Government, or would that be

against what your intent is on the amendment? That is what I am trying to clarify.

Mr. BLAUM. I think for the purposes of your question, I believe that, yes, it includes stepparents, stepbrother, stepsister, stepchild.

Mr. GLADECK. Okay.

Mr. BLAUM. But to be extra clear, the next step I would take if and when this becomes law is to ask the Ethics Commission for a ruling. Once you get that, what applies to a child applies to a stepchild, and that is, you cannot use the authority of your office as it is defined in the bill to bring about a private pecuniary benefit to that member of your immediate family.

The authority of your office, as I said earlier, is clearly defined and narrowly defined so that people do not accidentally run afoul. You could only, as a State Representative, you could only vote. If you voted a pecuniary benefit to a member of your immediate family, or in our limited ability to hire and fire here in the House, we could not do that. Can they work elsewhere? Yes. Can you ask for help, recommend, suggest that someone in your town hire your stepchild? Yes. That is not what we are trying to prevent. What we are trying to prevent is the intentional, direct conflict of interest. Other than that, you can do anything you want.

Mr. GLADECK. Okay. I appreciate your clarification. I think what you are saying is that it is okay then for a member of this legislative body under the terms of this amendment to recommend a sibling or family member, including the stepchildren or stepparents, for a position in State Government or for a position in any other governmental entity in the State of Pennsylvania so long as we personally receive no financial benefit. That is the way I read what you are saying to me. Correct me, please, if I am wrong.

Mr. BLAUM. And if you are asking my opinion of that, I would say yes, to the point, you know, except your ability to hire and fire. You could not hire your child in your district office, in your Harrisburg office, probably not in the Republican Caucus or in the House of Representatives. Can they work for a different department in State Government if somebody else does the hiring? Yes. We are not trying to prevent that.

Mr. GLADECK. We are not.

Mr. BLAUM. What we do prevent is the direct hiring by you or your direct vote, which is the particular, unique thing you do in your office, to bring about a financial gain for them. That is all.

Mr. GLADECK. Okay. But it is not quite that "all," because you brought up another point that maybe should be clarified by you since you are the maker of the amendment, and I do not oppose the amendment, but we do not actually hire district aides, for instance. They are hired by our respective leaders in our caucuses and are paid directly by them.

Mr. BLAUM. Oh, we hire them over here.

Mr. GLADECK. Pardon?

Mr. BLAUM. That was a joke.

Mr. GLADECK. So you would say—

The SPEAKER. Watch what you are joking about.

Mr. GLADECK. You would say then that they also would be precluded. In other words, your caucus could not hire a relative. I am just trying to get you to clarify your own amendment.

Mr. BLAUM. Right; that is what I would say.

Be careful, because, you know, you may have an awful lot of power to almost—almost—call the shot to have that person hired in your Harrisburg office. So while your leadership may actually do the hiring, it may come out in the course of an inquiry by the Ethics Commission that for all intents and purposes, you did the hiring.

So yes, as far as in our world here in the House of Representatives, I think it would prohibit that. But how about the mayor of your town? He would be prohibited from hiring his son or daughter, period. Does that mean his son or daughter could not work in Harrisburg for Representative Gladeck? No; that could happen. That is not what we are trying to prevent. What we are trying to prevent is that the mayor of your town could not hire his spouse, son or daughter, brother or sister.

Now, can they work elsewhere in the world of government - Federal, State, local, school district, various authorities? We cannot deny their constitutional rights to work elsewhere, but we can eliminate, again, wring out, the conflict of interest of that mayor doing it.

Mr. GLADECK. Sure. I appreciate the clarification. I think it is a good amendment, but I think it probably could have gone further.

I do not know that it is proper that we are allowed to recommend family members for positions in State Government when in fact we have a direct influence over virtually every department of State Government.

Thanks again for your clarification.

The SPEAKER. The Chair thanks the gentleman.

On the question of agreeing to the amendment, the Chair recognizes the gentleman from Delaware, Mr. Gannon.

Mr. GANNON. Mr. Speaker, I would like to interrogate the sponsor.

The SPEAKER. The gentleman indicates he will consent to interrogation. You may proceed.

Mr. GANNON. Mr. Speaker, I just picked up on the prior debate about the mayor's wife, and my question is this: Suppose a woman or a spouse worked for the present mayor of one of the towns in your legislative district, and then her husband, who was not mayor, ran for mayor and he was elected. Now, what would happen then?

Mr. BLAUM. In the year and a half that this bill has been before us, every hypothetical in the world has come before the members of the Judiciary Committee that worked on the bill, and we simply cannot anticipate every one.

If my wife works for the mayor of Wilkes-Barre and then I get elected mayor of Wilkes-Barre, what I have to do as someone who is a public official and aware of the Ethics Act, I have to ask for advice and ask for a ruling on it. I mean, that

is what I would do. You may find out, Mayor Blaum, that because you did not hire your wife, maybe she can stay; no problem. It might be the interpretation of the Ethics Commission she had better go. That was the sacrifice that you made when you ran. Maybe you should check this out before you run. Maybe you check it out and you ask for a ruling. But to have every answer that we can conceivably come up with, I am just not going to have all of them.

Mr. GANNON. Well, I do not care. I am not worried about what the Ethics Commission has to say at some time in the future; I want to hear what you have to say right here on the floor of the House. You are the prime sponsor of this bill and you are the prime sponsor of this amendment, so you should know exactly what it means and what it is going to do.

Mr. BLAUM. I know. I probably should.

Mr. GANNON. So I want to know what the legislative intent is.

Now, if that situation happens— And I think it happens very frequently, not just in a purely hypothetical situation. We have a large number of communities out there with mayors and whatever.

Mr. BLAUM. If you are asking me for my opinion, I mean—

Mr. GANNON. I am asking you for the legislative intent here.

Mr. BLAUM. As we have crafted the bill, the new mayor would not have done anything - would not have used the authority of his office - to hire that person, so maybe she can stay.

But again, you know, the Ethics Commission is a continuum. It is a seven-member board that changes every so many years. You may come up with a different ruling, but that would be my immediate answer. I do not know if it is right or not, but that is my answer.

Mr. GANNON. So it would be fair to say that the legislative intent would be—

Mr. BLAUM. It would be fair to say that there is no legislative intent for the incident that you mentioned. But my opinion is that the new mayor did not use the authority of his office to do the hiring. That person already worked there. Believe me, that Ethics Commission has had so many hundreds and hundreds of rulings, I will bet you they have already confronted this issue and it is already settled whether or not that person would run afoul of the commission's ruling.

Mr. GANNON. Well, we are putting in a new act here, so I do not know— I am not concerned about history; I am concerned about the future and the reenactment under this law. I am asking a very simple question. You drafted the amendment. I am just asking, what is your legislative intent? I am not asking a hypothetical. I am saying, look, well, it is a hypothetical, but it is a situation that I believe occurs quite frequently, and that is where the wife, the spouse, or other relative that is prohibited under the language of your amendment already works for the mayor, for example, and then her husband or that relative that falls within the prohibition of that amendment is elected to that position.



Mr. BLAUM. Okay.

Mr. GANNON. What happens? I mean, simple legislative intent.

Mr. BLAUM. And my answer, and again you may not like it, is that I do not have a legislative intent for the hypothetical that you suggest. But if I were a commission member and that case came before me, I would rule that the newly elected mayor did not use the authority of his office to hire that person. That person was hired many years ago, and in my way of thinking, she can stay.

But, you know, HB 75 right now is silent on that hypothetical. We have no legislative intent on that. But my personal opinion is that it would be perfectly fine, that the newly elected mayor did not use the authority of his office to hire that person.

Mr. GANNON. Okay. So you are telling me what is not the intent and you are saying, I do not have legislative intent. Then if you could briefly say what is the legislative intent of the language of the amendment that you are offering.

Mr. BLAUM. Legislative intent is to broaden the definition of "immediate family," which is those people that we cannot use the authority of our office—"authority of office" being defined—to bring about a private financial gain for them, and we seek to expand that to include the people that I mention in the amendment. That is not even as broad as the number of people we originally mentioned in the bill. It is an effort to compromise between what is now in the bill and what used to be in the bill.

Mr. GANNON. So earlier on you said, well, if the newly elected mayor had not used his office, which he could not have used because he was not in that office, to hire his wife as working for the mayor, then this bill is silent on that particular issue, and that in your view, the commission in all likelihood with those findings would come back and say, well, under those facts, she could stay on as an employee.

Mr. BLAUM. What if she is the solicitor, though, and each newly elected mayor gets to reappoint or appoint a new solicitor. Then the newly elected mayor probably could not reappoint her.

Mr. GANNON. That was my next question. I mean, suppose she was eligible for a promotion or a pay raise. He could not do that?

Mr. BLAUM. Yes; you are going to run into all kinds of problems.

Mr. GANNON. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Beaver County, Mr. Colafella, on the amendment.

Mr. COLAFELLA. Mr. Speaker, will you stand for interrogation, please?

The SPEAKER. The gentleman indicates he will stand for interrogation. Mr. Colafella, you may proceed.

Mr. COLAFELLA. Mr. Speaker, I would like to just ask a question about voting which will enhance or improve the financial status of let us assume your wife or your son. If any of us in here happen to have a son or a wife that teaches school and now we are asked to vote on an increase in teachers

salaries when we are asked to vote on the budget, in all likelihood, if we vote for the budget, which means that the teachers will get an increase in pay, we will be eliminated from voting on the budget according to what I hear. Is that true?

Mr. BLAUM. No, because you are supposed to look on page 5, line 7: "...'conflict of interest' does not include an action having a de minimis economic impact or which affects to the same degree a class,..." meaning you can vote on things that affect teachers because you are affecting a whole class, every teacher in Pennsylvania, even though your wife and son and daughter may all be teachers. You can vote on things which affect all kinds of professions, which we do through the Professional Licensure Committee, all professions, because we affect them as a class. But if a bill comes up to benefit Representative Blaum's daughter, you know, that is special; that is a direct conflict of interest. That cannot happen. But to benefit all teachers as a class, no problem.

Mr. COLAFELLA. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Cambria County, Mr. Haluska.

Mr. HALUSKA. Mr. Speaker, may I interrogate the prime sponsor?

The SPEAKER. The Chair recognizes the gentleman.

Mr. HALUSKA. Mr. Speaker, I would like some clarification on contractual agreements between legislators who had contracts with State facilities for a period of years, even prior to the time that they were serving in the legislature and had clearance through the Ethics Commission on those contractual agreements. What position will they take at this point?

The SPEAKER. The gentleman, Mr. Blaum, is in order to answer the question.

Mr. BLAUM. For instance? What do you mean?

Mr. HALUSKA. For instance, if a person has a public building and he rents a room to a liquor store that has been in there for 20 or 30 years, and the Ethics Commission, after he went into office, had cleared this, that in fact it is legal because the contract was made prior to his election to office, now under this ethics ruling, how will that affect that individual? Will this supersede the original interpretation of the Ethics Commission?

Mr. BLAUM. No, unless you are an employee of the Liquor Control Board. But as a House member, what authority of your office could you possibly have used? If you are the owner of the building and the LCB contracts to lease that space, you know, unless you voted to steer them in that actual direction, unless you voted to put them there, which you did not do—the Liquor Control Board would have made that decision, I assume—

Mr. HALUSKA. Well, what would have happened under privatization of liquor stores if you voted contrary to privatization? That would sort of indicate that you were supportive of retaining that entity in that facility.

Mr. BLAUM. Not at all, because again you are affecting a class. You are not just affecting your particular store in your

particular town in your particular building. That vote on privatization affects LCB stores all over the Commonwealth, and you are voting for an entire class, an entire operation, not just that one particular instance, and that is an exemption.

Mr. HALUSKA. The second issue I would like is, what happens to legislators who are currently renting their own buildings for their own particular offices as legislators?

Mr. BLAUM. Who are currently renting their offices—What?

Mr. HALUSKA. In public buildings. They have a public building, and one of those units is being rented to the legislative office.

Mr. BLAUM. Right. And the owner of the public building is a member of your immediate family?

Mr. HALUSKA. Yes.

Mr. BLAUM. In my view, you are not the one renting it. I mean, the House of Representatives is actually the one renting it. Again, I would ask for a ruling from the Ethics Commission, but from what I understand, that is not a problem.

Mr. HALUSKA. Thank you.

The SPEAKER. The Chair recognizes the majority leader on the amendment.

Mr. O'DONNELL. Mr. Speaker, I would like to interrogate the gentleman.

The SPEAKER. The gentleman indicates he will consent to interrogation. You may proceed.

Mr. O'DONNELL. Mr. Speaker, a lot of the hypotheticals and questions that have been raised have not really directed themselves at the extension of the definition of "immediate family" but are hypotheticals about what we can do and what we cannot do and what other public officials and employees can do.

For purposes of legislative intent should this ever be interpreted by the Ethics Commission or by a court, I would like to ask you a question and I would like for you to direct your attention to page 3 of the bill, the definition of "authority of office or employment": the actual power necessary to the performance of the duties and responsibilities of a legislator and unique to the public office or position of legislator. Could you tell me what is that authority?

Mr. BLAUM. In my view, everything that I have been able to think about over 18 months involves our ability to vote either in committee, on the floor of the House, as members of extra commissions and agencies, or our limited ability—some of us have a larger ability—to hire and fire.

Mr. O'DONNELL. Okay. So the answer to the question, for purposes of the record and for purposes of the understanding of the House, is that we have two issues to be concerned with: the use of our vote and the power to hire and fire. The gentleman indicated in response that some of us have a greater power to hire or fire than others. I assume that the reference—let me ask further just for clarification—is that the gentleman, Mr. Blaum, does not have the power to hire and fire under the existing budget, and the majority leader does have the power to hire and fire. So this is a different standard for me than for you.

Mr. BLAUM. Certainly the majority leader has the ability to hire more people. It can be argued that I hire the people that work in my district office—

Mr. O'DONNELL. Yes, Mr. Speaker. I am sorry. That is correct.

Mr. BLAUM. —but other than that, unfortunately, we do not have the power to hire other positions.

Mr. O'DONNELL. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Lucyk, from Schuylkill County is recognized.

Mr. LUCYK. Mr. Speaker, please clarify a point for me. I thought the amendment that you are proposing just removes in-laws from the bill.

The SPEAKER. That was the interpretation that the Speaker tried to put on the amendment.

Mr. LUCYK. Well, we are arguing here who can do what and who can do what. We are not even arguing this amendment. What everybody else is arguing about here is not even in your amendment—

The SPEAKER. Will the gentleman suspend.

The House may have been led to believe that there was a removal of only in-laws from the bill with the amendment. The Speaker indicated that that was so, and the Speaker apologized because the Speaker was in error.

The amendment does add to the category of people who are covered by this clause that has been debated a number of people - a parent, a spouse, a child, a brother, or a sister - and that being the case, the debate seems to be involving what can be done and what cannot be done with those people who are being added to the amendment, so most of the debate is in order.

The gentleman from Allegheny County, Mr. Clark, is recognized on the amendment.

Mr. B. D. CLARK. Thank you, Mr. Speaker.

A brief interrogation of the maker of the amendment.

The SPEAKER. The gentleman consents to interrogation. You may proceed.

Mr. B. D. CLARK. Mr. Speaker, you have expanded the definition to include brothers and sisters of the public official. You know, we are not all one big happy family in each family, and what I am questioning is how we are expected to know exactly what interests those brothers and sisters have. Are you telling me that it is now my job to go and talk with my brothers and sisters and find out what their interests are prior to making any future votes?

Mr. BLAUM. I would suggest that it probably is worth our while, yes, to find out.

Mr. B. D. CLARK. Well, Mr. Speaker, I would like to be recognized for some comments. I am through with my interrogation.

The SPEAKER. The gentleman has indicated that he has terminated his interrogation and wishes to speak on the bill. He is in order. The gentleman, Mr. Clark, may proceed.

Mr. B. D. CLARK. Thank you, Mr. Speaker.

For the information of the members and so they can understand where I am coming from, I have six brothers and three

sisters. Some of them I have not seen for 17 years. It raises a particularly difficult problem for me to know what I can vote on and what I cannot. What I believe Representative Blaum just did was render this provision unconstitutional. There is no court in the land that is going to hold that I am my brother's keeper or my sister's keeper, that it is my job to go out and find out what interests they may have.

Now, the first thing that will happen if this bill becomes law in this form is I am going to be required to request an opinion from this new Ethics Commission to find out just what problems I may have in making votes. And if they instruct me to go out and find out what those members of my family are involved in today, I can tell you those members of my family will not answer me, as will happen with every public official in Pennsylvania.

Now, there was a simple solution to this, and that simple solution was to define "immediate family" to be anyone residing in the public official's household, whether it be a brother or a sister or a grandmother or a grandfather, because in my mind that is your real immediate family. When we start going out and looking for people to include, we create a real problem. But I think the maker of the amendment has just rendered this provision unconstitutional, and I think the courts will rule so.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—146

Adolph	Dempsey	LaGrotta	Reber
Allen	Dietterick	Langtry	Reinard
Angstadt	Dininni	Lashingner	Ritter
Argall	Distler	Lee	Robbins
Barley	Dombrowski	Leh	Robinson
Battisto	Dorr	Lescovitz	Rudy
Belardi	Durham	Levdansky	Rybak
Belfanti	Fairchild	Lloyd	Saloom
Black	Farmer	McCall	Saurman
Blaum	Fleagle	McHale	Scheetz
Bortner	Foster	McVerry	Schuler
Bowley	Fox	Maine	Scrimenti
Boyes	Freeman	Markosek	Semmel
Brandt	Gallen	Marsico	Serafini
Broujos	Gannon	Mayernik	Smith, B.
Bunt	Geist	Melio	Smith, S. H.
Burd	George	Merry	Snyder, D. W.
Burns	Gladeck	Michlovic	Snyder, G.
Bush	Gruppo	Micozzie	Staback
Caltagirone	Hagarty	Miller	Stairs
Cappabianca	Haluska	Moehlmann	Stish
Carlson	Hasay	Morris	Strittmatter
Carn	Hayes	Mowery	Stuban
Cawley	Heckler	Mrkonic	Tangretti
Cessar	Herman	Murphy	Taylor, E. Z.
Chadwick	Hershey	Nahill	Taylor, F.
Civera	Hess	Nailor	Telek
Clark, D. F.	Itkin	Perzel	Tigue
Clark, J. H.	Jackson	Petrone	Veon
Clymer	Jadlowiec	Phillips	Vroon
Cole	Jarolin	Piccola	Wass
Cornell	Johnson	Pistella	Weston
Corrigan	Josephs	Pitts	Wilson
Cowell	Kaiser	Pressmann	Wogan
DeLuca	Kasunic	Preston	Wright, J. L.
Daley	Kondrich	Raymond	Wright, R. C.

Davies Kukovich

#### NAYS—48

Acosta	Gigliotti	McNally	Thomas
Billow	Godshall	Maiale	Trello
Bishop	Gruitza	O'Brien	Trich
Clark, B. D.	Harper	O'Donnell	Van Horne
Cohen	Hayden	Oliver	Wambach
Colaella	Howlett	Petrarca	Williams
Colaizzo	Hughes	Pievsky	Wozniak
Coy	James	Richardson	Wright, D. R.
DeWeese	Kennedy	Rieger	Yandrisevits
Donatucci	Kosinski	Roebuck	
Evans	Laughlin	Ryan	Manderino, Speaker
Flick	Linton	Steighner	
Freind	Lucyk		

#### NOT VOTING—1

Taylor, J.

#### EXCUSED—7

Birmelin	Fee	Letterman	Olasz
Fargo	Gamble	Noye	

The question was determined in the affirmative, and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. McNALLY offered the following amendments No. A0298:

Amend Sec. 1 (Sec. 8), page 29, by inserting between lines 27 and 28

(l) As a general rule, no person shall disclose or acknowledge, to any other person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the commissioner. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this subsection when the matters pertain to any of the following:

(1) final orders of the commission as provided in section 8(h);

(2) hearings conducted in public pursuant to section 8(g);

(3) for the purpose of seeking advice of legal counsel;

(4) filing an appeal from a commission order;

(5) communicating with the commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the commission;

(6) consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;

(7) testifying under oath before a governmental body or a similar body of the United States of America;

(8) any information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of; or

(9) such other exceptions as the commission, by regulation, may direct.

Amend Sec. 1 (Sec. 8), page 29, line 28, by striking out "(L)" and inserting

(m)

On the question,

Will the House agree to the amendments?

The SPEAKER. The gentleman from Allegheny, Mr. McNally, is recognized on amendment A0298.

Mr. McNALLY. Thank you, Mr. Speaker.

I rise today in sponsorship of this amendment to HB 75. It is, I believe, a clarification of what I would consider a glaring deficiency in HB 75.

On page 26, lines 15 and 16, and then on page 27, lines 2 through 5, the bill changes the confidentiality requirements significantly. Current law states that all commission proceedings and records relating to an investigation shall be confidential. This broad statement of confidentiality has been interpreted to mean that all persons involved - the commission, its employees, the complainants, and others - are obliged to keep Ethics Commission proceedings, from the time the complaint is filed until a final order has been made, confidential subject to a penalty of a \$1,000 fine and up to 1 year in prison. This bill now deletes that language and replaces it with the following statement: "The commission shall keep information, records and proceedings relating to a preliminary inquiry confidential." And then later on page 27, lines 2 through 5 state that "The commission shall keep information, records and proceedings relating to an investigation confidential until a final determination is made...."

What the Democratic analysis written by the former chief counsel of the Judiciary Committee states on page 6 of the bill analysis is that this bill clarifies that only the commission must keep information regarding an inquiry or investigation confidential. On January 31 in front of the Judiciary Committee, it was told to me by the minority counsel for the Judiciary Committee that that was the minority view of this new language in HB 75. What that means is that a person could file a complaint with the Ethics Commission and then walk out on the Capitol steps without any pain of any penalty and in front of the cameras and the news media declare that you or another public employee or official has had an ethics complaint filed against him purely for malicious purposes.

I do not think that that is the intention of this legislature, and that is why I have introduced this particular amendment. It states that no person should disclose or acknowledge any information relating to a complaint, inquiry, investigation, or other proceeding with nine enumerated exceptions. I think that the exceptions are well considered, and I would ask for your support in this amendment. Thank you.

The SPEAKER. The Chair recognizes on the amendment the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Mr. Speaker, would the maker of the amendment stand for a brief interrogation?

Mr. McNALLY. I will.

The SPEAKER. The gentleman indicates he will stand for interrogation. Mr. McHale, you may proceed.

Mr. McHALE. Mr. Speaker, I have only had a few moments to review subsection (8) of your proposed amendment, but at least as I read that subsection, it appears that for the first time we would be granting to the target of a complaint the right to waive confidentiality if he would choose to do so. Is that a correct interpretation of subsection (8)?

Mr. McNALLY. It is. And the reason for that exception is that it has become, I think, commonplace for ethics complaints and the filing of ethics complaints to be leaked to the news media and then the subject of the complaint or proceeding before the Ethics Commission has been bound not to speak about that proceeding. I think that the person who is the subject of a complaint ought to be permitted to defend themselves in public.

Mr. McHALE. Mr. Speaker, that concludes my interrogation.

May I speak on the amendment?

The SPEAKER. The gentleman is in order.

Mr. McHALE. Mr. Speaker, I support this amendment. I have felt for some time that the very stringent confidentiality requirements were of questionable constitutionality. Let me give you a very brief hypothetical that illustrates that concern. The gentleman, Mr. McNally, touched on a similar issue a few moments ago.

It has become, I am afraid, a relatively common tactic for someone who is filing a frivolous complaint to announce that such a complaint will be filed with the Ethics Commission, to do so publicly and thereby cast an individual into public ill repute. Thereafter, the complaint is immediately filed, and the person who is the target of that complaint is bound by existing rules of confidentiality and is therefore unable to respond in a public forum to the charges that have already been leveled against him. I think that is inherently unfair, and I think that that restriction on freedom of speech is of questionable constitutionality.

Although there are provisions of this amendment that I think are surplusage, and that is, unnecessary, I believe that the heart of this amendment, as contained in subparagraph (8), is an appropriate step. If someone charges an individual with *impropriety in public*, that person who is the target of such a charge should have the right in public to respond and defend himself. To deny that right, I think, raises some severe questions of freedom of speech. Therefore, Mr. Speaker, I rise in support of Mr. McNally's amendment, and I urge an affirmative vote.

The SPEAKER. The Chair recognizes the minority leader on the amendment.

Mr. RYAN. Mr. Speaker, I agree with the gentleman who just spoke. I think this is an amendment that we should accept.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Gannon, on the amendment.

Mr. GANNON. Mr. Speaker, I would like to interrogate the sponsor.

The SPEAKER. The sponsor of the amendment indicates he will stand for interrogation. You may proceed.

Mr. GANNON. Mr. Speaker, I just had a chance to look at the amendment, but one thing that struck me—and also in your comment on interpretation of the amendment—it says, as I read it, "...no person shall disclose or acknowledge, to any other person, any information relating to a complaint...." Now, does that necessarily mean that if, for

example, I filed a complaint against you, as I understand this amendment, I could not necessarily disclose the substance of the complaint. But would this also prohibit me from disclosing the fact that I filed a complaint?

Mr. McNALLY. It is my intent that under the language of this amendment, "information" would include the fact that a complaint has been filed, that a preliminary inquiry is in progress, or that an investigation is in progress. Any information that pertains to that entire proceeding from the time the complaint is filed until a final order has been issued is information regarding that Ethics Commission proceeding, and no person under this amendment would be permitted to disclose or acknowledge that information to another person.

Mr. GANNON. So as I understand your interpretation, it would be fair to say that the mere fact that I filed a complaint is also prohibited from disclosure under your amendment.

Mr. McNALLY. Yes, because that would be information concerning the complaint.

Mr. GANNON. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

#### YEAS—195

Acosta	Dombrowski	Lashinger	Robbins
Adolph	Donatucci	Laughlin	Robinson
Allen	Dorr	Lee	Roebuck
Angstadt	Durham	Leh	Rudy
Argall	Evans	Lescovitz	Ryan
Barley	Fairchild	Levdansky	Rybak
Battisto	Farmer	Linton	Saloom
Belardi	Fleagle	Lloyd	Saurman
Belfanti	Flick	Lucyk	Scheetz
Billow	Foster	McCall	Schuler
Bishop	Fox	McHale	Scrimenti
Black	Freeman	McNally	Semmel
Blaum	Freind	McVerry	Serafini
Bortner	Gallen	Maiale	Smith, B.
Bowley	Gannon	Maine	Smith, S. H.
Boyes	Geist	Markosek	Snyder, D. W.
Brandt	George	Marsico	Snyder, G.
Broujos	Gigliotti	Mayernik	Staback
Bunt	Gladeck	Melio	Stairs
Burd	Godshall	Merry	Steighner
Burns	Gruitza	Michlovic	Stish
Bush	Gruppo	Micozzie	Strittmatter
Caltagirone	Hagarty	Miller	Suban
Cappabianca	Haluska	Moehlmann	Tangretti
Carlson	Harper	Morris	Taylor, E. Z.
Carn	Hasay	Mowery	Taylor, F.
Cawley	Hayden	Mrkoncic	Taylor, J.
Cessar	Hayes	Murphy	Telek
Chadwick	Heckler	Nahill	Thomas
Civera	Herman	Nailor	Tigue
Clark, B. D.	Hershey	O'Brien	Trello
Clark, D. F.	Hess	O'Donnell	Trich
Clark, J. H.	Howlett	Oliver	Van Horne
Clymer	Hughes	Perzel	Veon
Cohen	Itkin	Petrarca	Vroon
Colafella	Jackson	Petrone	Wambach
Colaizzo	Jadlowiec	Phillips	Wass
Cole	James	Piccola	Weston
Cornell	Jarolin	Pievsky	Williams
Corrigan	Johnson	Pistella	Wilson
Cowell	Josephs	Pitts	Wogan
Coy	Kaiser	Pressmann	Wozniak
DeLuca	Kasunic	Preston	Wright, D. R.

DeWeese	Kenney	Raymond	Wright, J. L.
Daley	Kondrich	Reber	Wright, R. C.
Davies	Kosinski	Reinard	Yandrisevits
Dempsey	Kukovich	Richardson	
Dietterick	LaGrotta	Rieger	Manderino,
Dininni	Langtry	Ritter	Speaker
Distler			

NAYS—0

NOT VOTING—0

EXCUSED—7

Birmelin	Fee	Letterman	Olasz
Fargo	Gamble	Noye	

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. McNALLY offered the following amendments No. A0299:

Amend Sec. 1 (Sec. 3), page 10, line 11, by inserting a period after "associated"

Amend Sec. 1 (Sec. 3), page 10, line 13, by striking out the period after "interest" and inserting

. This section shall not be construed to prohibit payment or receipt of witness fees provided by law, or the payment by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any trial, hearing or proceeding, or, in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, in appearing or in testifying: Provided, That, should a public official or public employee be paid or receive fees for testimony concerning a matter with which the official or employee was involved in his or her capacity as a public official or public employee, the public official or public employee shall give prior notice, in writing, to the commission, any party interested in the litigation or proceeding for which the testimony is given, and the governmental body with which the public official or public employee is associated.

The aforesaid notice shall contain the following information:

- (1) the name of the public official or public employee;
- (2) the caption, docket number and court, tribunal or agency, or other means of identifying the proceeding;
- (3) a description of the testimony which the public official or public employee intends to give;
- (4) the amount of the fees which the public official or public employee expects to receive for his or her testimony;
- (5) the name and address of the person who will pay the fee; and
- (6) a statement, under oath, that to the best of the knowledge, information and belief of the public official or public employee, fees were not solicited or offered for the purpose of influencing the judgment or action of the public official or public employee.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McNally, on amendment A0299.

Mr. McNALLY. Thank you, Mr. Speaker.

First of all, let me thank the House for its generous recognition. I appreciate it.

Someone has asked me in the process of preparing for this particular day why I would pick the ethics bill to make my maiden appearance on this floor, and really the answer to that is that I come from a family of public employees. My grandfather was an employee of the city of Pittsburgh; my uncle is a 20-year veteran of the city fire department; and my father is also a 25-year veteran of the city fire department in Pittsburgh. So the situation and the problems of public employees are very important to me, and that is why this ethics bill is important to me; that is why I have introduced this particular amendment.

This amendment, to give you some background, arises out of a fire on the south side of the city of Pittsburgh. The fire department, upon arriving at the scene of the fire, called in the department's arson investigator, who conducted an investigation and concluded that arson was the cause of the fire. Subsequently, a man was arrested and convicted for arson in that fire.

Investigators suspected the owner of the theater as paying the man to set the fire with the intention of making a fraudulent claim on his insurance company. The theater owner made a claim on the insurance company. The insurance company denied the claim, alleging the fraud of the theater owner in that he had paid this other person to set the theater on fire. The owner sued the insurance company in Federal court and he lost, because the jury in that Federal court decision found that the owner of the theater had paid someone to set his theater on fire.

Subsequently, the owner of the theater sued KDKA Television for libel. KDKA Television hired the arson investigator in that original investigation of the fire to testify as an expert witness as to the cause of the fire. Very strangely, soon after he made his expert testimony on behalf of the television station, an ethics complaint was filed against that arson investigator by the owner of the theater alleging that since the arson investigator had been paid an expert witness fee by using information that he had acquired during the course of his investigation of that fire, that he had violated the Ethics Act. Although the information the arson investigator used was confidential in the sense that it was not readily accessible to the public, what you ought to know is that all the information which the arson investigator used or could have used as a private expert could have been used by any other private expert testifying for the television station. In fact, the information that he used as an expert witness, that he was paid for in giving his expert testimony, was available to that owner of the theater who filed the ethics complaint against him.

This particular amendment has been drafted to allow that arson investigator and other public officials and public employees to receive a fee for their expert testimony. The wording of this amendment has been taken almost verbatim from the Massachusetts Ethics Code. This particular section of the Massachusetts Ethics Code was enacted in 1964, and in nearly 25 years that that particular section has been in force, the Massachusetts Ethics Commission has said that they have found no evidence of abuse and that it promotes the general

welfare and good public policy. The amendment also requires that if a public official or employee should testify as an expert and testifies on a matter in which that person was involved in his official capacity, he should provide notice to the Ethics Commission and, as well, to the other interested parties in the litigation that he was so involved and that he is receiving an expert witness fee.

Therefore, Mr. Speaker, I ask the House to support this amendment as well.

The SPEAKER. On the question, the Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment.

The situation cited by Representative McNally is indeed a sad one, but the solution to that problem is not to write into law that public officials can use their office to obtain expert witness fees. This is the exact thing that the Ethics Law was created to prevent; that is, the public officials, be they elected or appointed, to keep them from using their official position - what they know because of their official position, the records that they may have in city hall because of their official position - to keep them from using that which they have because of their official position to go out and earn an expert witness fee in a lawsuit. To write this into law that it is now acceptable to do so creates all kinds of possibilities and hypotheticals, some of which we went over today, where people, because of the expectation or the hope to gain expert witness fees, could be in any way influenced. What we are out to prevent is public officials obtaining private pecuniary benefit, simply because we are public officials, above and beyond the compensation provided by law. This is a perfect example of the kind of thing we do not want to write into law because of the miscarriage of justice which might have happened in the case involving Representative McNally and the firefighter in his hometown.

Writing law based on a single case is not a good idea, it seems to me. It is not a good idea that we allow public officials now one source of money above and beyond their compensation provided by law, and while this may be a difficult situation, I ask that the House defeat the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—54

Adolph	Dombrowski	Lescovitz	Raymond
Belardi	Durham	Lucyk	Reber
Burd	Evans	McNally	Roebuck
Caltagirone	Flick	McVerry	Ryan
Cawley	Fox	Michlovic	Semmel
Cessar	Freind	Micozzie	Stairs
Civera	Gigliotti	Moehlmann	Steighner
Clark, B. D.	Gladeck	Mrkonic	Telek
Cohen	Gruitza	Petrarca	Trello
Coiafella	Heckler	Petrone	Van Horne
Colaizzo	Johnson	Pievsky	Wright, D. R.
Coy	Kosinski	Pistella	
DeWeese	LaGrotta	Pressmann	Manderino,
Davies	Lashingner	Preston	Speaker

## NAYS—138

Acosta	Donatucci	Laughlin	Rudy
Allen	Dorr	Lee	Rybak
Angstadt	Fairchild	Leh	Saloom
Argall	Farmer	Levdansky	Saurman
Barley	Fleagle	Linton	Scheetz
Battisto	Foster	Lloyd	Schuler
Belfanti	Freeman	McCall	Scrimanti
Bishop	Gallen	McHale	Serafini
Black	Gannon	Maiale	Smith, B.
Blaum	Geist	Maine	Smith, S. H.
Bortner	George	Markosek	Snyder, D. W.
Bowley	Godshall	Marsico	Snyder, G.
Boyes	Gruppo	Mayernik	Staback
Brandt	Hagarty	Melio	Stish
Broujos	Haluska	Merry	Strittmatter
Bunt	Harper	Miller	Stuban
Burns	Hasay	Morris	Tangretti
Bush	Hayden	Mowery	Taylor, E. Z.
Cappabianca	Hayes	Murphy	Taylor, F.
Carlson	Herman	Nahill	Taylor, J.
Carn	Hershey	Nailor	Thomas
Chadwick	Hess	O'Brien	Tigue
Clark, D. F.	Hughes	O'Donnell	Trich
Clark, J. H.	Itkin	Oliver	Veon
Clymer	Jackson	Perzel	Vroon
Cole	Jadlowiec	Phillips	Wambach
Cornell	James	Piccola	Wass
Corrigan	Jarolin	Pitts	Weston
Cowell	Josephs	Reinard	Williams
DeLuca	Kaiser	Richardson	Wilson
Daley	Kasunic	Rieger	Wogan
Dempsey	Kenney	Ritter	Wozniak
Dietterick	Kondrich	Robbins	Wright, J. L.
Dininni	Kukovich	Robinson	Yandrisevits
Distler	Langtry		

## NOT VOTING—3

Billow	Howlett	Wright, R. C.
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## EXCUSED—7

Birmelin	Fee	Letterman	Olasz
Fargo	Gamble	Noye	

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. McNALLY offered the following amendments No. A0295:

Amend Sec. 2 (Sec. 10.1), page 32, line 7, by striking out "in a grossly negligent manner or"

Amend Sec. 2 (Sec. 10.1), page 32, line 9, by striking out "OR" and inserting

and

Amend Sec. 2 (Sec. 10.1), page 32, line 12, by inserting a period after "commission"

Amend Sec. 2 (Sec. 10.1), page 32, lines 12 through 15, by striking out "; and" in line 12 and all of lines 13 through 15

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McNally, on the amendment.

Mr. McNALLY. Thank you, Mr. Speaker.

You win some and you lose some, I guess, and I have learned that early.

This HB 75 creates a new cause of action for persons who are the victims of wrongful use of the Ethics Act. According to section 10.1, liability is imposed upon a person who signs a complaint alleging a violation of the act if three elements are satisfied: the first is if the person filing the complaint acted in a grossly negligent manner or without probable cause; second, that that person publicly disclosed or caused to be disclosed that a complaint had been filed; and third, that the complaint was frivolous. This bill defines a frivolous complaint as one which was filed in a grossly negligent manner without a basis in law or fact.

This particular provision raises several problems. First, the term "in a grossly negligent manner" tends to conflict with the term "without probable cause." Negligence generally implies that a person has failed to meet a standard of care or conduct that a reasonable and prudent person would meet. Gross negligence means that the person has fallen well below that standard. The term "probable cause" is defined in this bill as having a reasonable belief in the existence of facts upon which the complaint is based and either a reasonable belief that those facts are valid under the act or that a reasonable belief was based on reliance on the advice of counsel.

Arguably, a person who signs a complaint alleging a violation of the Ethics Act without having a reasonable belief in the facts on which that complaint is based or without having a reasonable belief that those facts constitute a violation of the act is simply negligent. If a reasonable person would not believe in the existence of the facts alleged in an ethics complaint, someone who does believe in the existence of those facts is, as I said, negligent. Therefore, what this section seems to say is that wrongful use occurs if the complaint was grossly negligent or if it was negligent. Those terms are not consistent. Since someone who files a complaint without probable cause and then violates the confidentiality of the proceeding has infringed upon the rights of another person, the term "in a grossly negligent manner," as provided in this amendment, would be deleted.

The second problem involves the three lines of the third element of a wrongful use. These three lines simply repeat the requirements of the first section but change the language. These three lines require that the complaint was frivolous, which, as the bill defines, means that it was filed in a grossly negligent manner, or that there was a lack of probable cause. It is the same problem of inconsistency as I discussed before.

The argument in favor of keeping these three lines was made in the Judiciary Committee. They said that the commission must determine that the complaint was filed in a grossly negligent manner. That argument lacks merit for two reasons. First, if probable cause can arise out of simple negligence, a person is liable for wrongful use of the Ethics Act whether the commission decides that the complaint was frivolous or not; and second, the bill provides that the commission will make a determination of whether the complaint is frivolous or without probable cause at the conclusion of the preliminary

inquiry stage, and that is important, because a person is not even notified that a complaint has been filed until after the preliminary inquiry stage is completed and an investigation has begun. As a result, a person could be denied the right to sue for a wrongful use of the act without ever getting any kind of notice that their rights might be infringed. That makes this provision unconstitutional.

So for those reasons I ask your support for this amendment.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

I rise to oppose this McNally amendment, and I do so for one reason. The entire section which this amendment addresses is one that we put in specifically to protect all elected officials, and I think it most commonly occurs in local races where you do have this complaint to the Ethics Commission which is made publicly 10 days before the election and there is no time for the incumbent to respond, no way for them to respond, and clearly, somebody is abusing the existence of an Ethics Act in order to try and backdoor an election. Therefore, we create a cause of action which gives that incumbent - the person who, and I think maybe an appropriate word from "Ghostbusters" is "slimed" by that kind of conduct - some kind of redress. However, we purposely attempted to make that redress limited so it could not be abused the other way.

At the time Mr. McNally originally conceived this amendment, before the Judiciary and the Appropriations Committees had dealt with this bill, he may have had a point well taken. In the version of the bill we have before us today as amended by the Appropriations Committee, the requirements have already been simplified. You have, basically like ordering from a Chinese restaurant menu, one from column A and one from column B. You either acted in a grossly negligent manner or without probable cause and for a reason other than reporting a violation of the act and the complaint was frivolous, as found by the Ethics Commission, or you publicly disclosed that complaint and the complaint was found frivolous by the Ethics Commission. What Mr. McNally would propose to remove is one part of the first column A entry, if you will, and the part which would be most protective of those who in good faith could make a complaint that was well intended but unfounded ultimately when an investigation takes place.

I would suggest that the product which was produced by the compromise in the Appropriations Committee is fair. It protects public officials, and it protects people who, with good intentions, make complaints to the commission. I would suggest that this amendment will weaken those provisions and will undercut the agreement which was reached, and I would oppose the adoption of this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I join Representative Heckler in opposing the amendment. I think he stated the case quite clearly in that the

wrongful use of the act is very important in order that there be some redress of grievances against someone—and Representative Heckler appropriately called them "slime"—who would misuse the Ethics Act to embarrass any public official. The wrongful use of the act is in there for that purpose. It is strong, we believe, and what the Appropriations Committee did to it was appropriate. It is the way I believe it should be, and we ask the members to defeat this amendment. Thank you very much.

The SPEAKER. The Chair recognizes for the second time the gentleman from Allegheny, Mr. McNally.

Mr. McNALLY. Thank you, Mr. Speaker.

Regardless of what the other speakers have said concerning this particular section of the bill, one thing that they cannot deny is that despite 18 months of study and thought and drafting of this bill, it has turned out to be convoluted in logic, unclear and ambiguous in language. This particular amendment seeks to clarify the language and make the language rational. This amendment, as well as other amendments that will follow, deals with and addresses deficiencies in this bill which exist in spite of 18 months of study and drafting and discussion.

There are, I believe, two reasons why these deficiencies, these problems and errors, continue to exist. The first factor which I think has influenced this bill—and it is evident from the very text of the bill itself—is that the Ethics Commission staff pursued its instinct for self-preservation. When you look at this bill, throughout it we have simply lifted the Ethics Commission regulations and inserted them into this bill without giving any thought as to the consequences. That particular problem exists right here in this part of the bill that I am seeking to amend. It exists throughout the bill, and other amendments will try to address those problems.

Whether you vote for this amendment or not, you ought to seriously consider each and every one of these amendments, because many of them, if not all, address serious problems and deficiencies and errors - convoluted logic and ambiguous language - that should not be in this bill after 18 months. Had the job been done correctly, this bill would not need this kind of amendment. Thank you, Mr. Speaker.

## PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Northumberland, Mr. Belfanti, on the amendment.

Mr. BELFANTI. Thank you, Mr. Speaker.

I rise for a point of parliamentary inquiry.

The SPEAKER. State the point of parliamentary inquiry.

Mr. BELFANTI. My question is whether or not this amendment is divisible.

The SPEAKER. Where is the suggestion of divisibility?

Mr. BELFANTI. At the word "and" which appears on the fifth line of the amendment, ending the first part of the amendment with the word "inserting."

The SPEAKER. Are you suggesting—



Mr. BELFANTI. I am sorry. Well, my question would be whether or not it would be divisible after the word "or" on line 2 or after the word "inserting" on line 4.

The SPEAKER. After the words "inserting and"; after the word "and" on line 5.

Mr. BELFANTI. Yes, Mr. Speaker.

The SPEAKER. The House will be at ease.

The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Mr. Speaker, I withdraw my question and do not intend to ask that the amendment be divided.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—28

Burd	Davies	McVerry	Tangretti
Caltagirone	Gruitza	Markosek	Taylor, J.
Cappabianca	Kaiser	Petrone	Trello
Clark, B. D.	Kosinski	Pistella	Trich
Clark, D. F.	Lee	Preston	Veon
Cohen	Lescovitz	Robinson	Wozniak
DeWeese	McNally	Stish	Wright, D. R.

NAYS—164

Acosta	Donatucci	LaGrotta	Ritter
Adolph	Dorr	Langtry	Robbins
Allen	Durham	Lashingier	Roebuck
Angstadt	Evans	Laughlin	Rudy
Argall	Fairchild	Leh	Ryan
Barley	Farmer	Levdansky	Rybak
Battisto	Fleagle	Linton	Saloom
Belardi	Flick	Lloyd	Saurman
Belfanti	Foster	Lucyk	Scheetz
Bishop	Fox	McCall	Schuler
Black	Freeman	McHale	Scrimenti
Blaum	Freind	Maiale	Semmel
Bortner	Gallen	Maine	Serafini
Bowley	Gannon	Marsico	Smith, B.
Boyes	Geist	Mayernik	Smith, S. H.
Brandt	George	Melio	Snyder, D. W.
Broujos	Gigliotti	Merry	Snyder, G.
Bunt	Gladeck	Michlovic	Staback
Burns	Godshall	Micozzie	Stairs
Bush	Gruppo	Miller	Steighner
Carlson	Hagarty	Moehlmann	Strittmatter
Carn	Haluska	Morris	Stuban
Cawley	Harper	Mowery	Taylor, E. Z.
Cessar	Hasay	Mrkonic	Taylor, F.
Chadwick	Hayden	Murphy	Telek
Civera	Hayes	Nahill	Thomas
Clark, J. H.	Heckler	Nailor	Tigue
Clymer	Herman	O'Brien	Van Horne
Colafella	Hershey	O'Donnell	Vroon
Colaizzo	Hess	Oliver	Wambach
Cole	Hughes	Perzel	Wass
Cornell	Itkin	Petrarca	Weston
Corrigan	Jackson	Phillips	Williams
Cowell	Jadlowiec	Piccola	Wilson
Coy	James	Pievsky	Wogan
DeLuca	Jarolin	Pitts	Wright, J. L.
Daley	Johnson	Pressmann	Wright, R. C.
Dempsey	Josephs	Raymond	Yandrisevits
Dieterick	Kasunic	Reber	
Dininni	Kenney	Reinard	
Distler	Kondrich	Rieger	
Dombrowski	Kukovich		

NOT VOTING—3

Billow	Howlett	Richardson	
		EXCUSED—7	
Birmelin	Fee	Letterman	Olasz
Fargo	Gamble	Noye	

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. O'DONNELL offered the following amendment No. A0304:

Amend Sec. 1 (Sec. 2), page 7, line 7, by inserting after "made"

to a public official or public employee

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the majority leader.

Mr. O'DONNELL. Thank you, Mr. Speaker.

This amendment clarifies the definition of "honorarium." It permits a public official to accept a speaking engagement as long as he does not personally accept the honorarium, meaning that you can go out and speak if it is for purposes of the honorarium being awarded to a charity.

The SPEAKER. The Chair recognizes the gentleman from Clarion, Mr. Wright.

Mr. D. R. WRIGHT. Will the gentleman stand for interrogation?

The SPEAKER. Will the gentleman stand for interrogation? The gentleman indicates he will. Mr. O'Donnell will consent to interrogation. You may proceed.

Mr. D. R. WRIGHT. Mr. Speaker, I do not have the bill before me. Do you have it?

The SPEAKER. The gentleman indicates he does have the bill.

Mr. D. R. WRIGHT. Thank you.

The honorarium is paid in recognition of published works, appearances, speeches, and presentations, which is not intended as consideration for the value of such services. Mr. Speaker, how is the value of such services determined? You are amending the definition of "honorarium," are you not?

Mr. O'DONNELL. Mr. Speaker, my amendment is very, very limited. I would be happy to be interrogated, but perhaps the author of the bill would be willing to be interrogated on the language that he has created. The language that I am creating is very, very narrow. All it does is insert the requirement that the honorarium that we are forbidding be an honorarium that comes to the public official, meaning that we could have an honorarium going to a charity.

Mr. D. R. WRIGHT. I understand.

Mr. O'DONNELL. I am sorry.

Mr. D. R. WRIGHT. I understand that you are amending this so that one could accept an honorarium but give it to a charity, or the honorarium could be given to a charity rather than given to the public official.

Mr. O'DONNELL. Yes; it must go to—

Mr. D. R. WRIGHT. And I am saying, are you not then amending the definition of "honorarium"?

Mr. O'DONNELL. Yes, sir.

Mr. D. R. WRIGHT. And I am confused then how you would determine whether or not an honorarium is in order, whether it is an honorarium or not. Since you are amending that definition, it seems to me that you would have some opinion about that.

Mr. O'DONNELL. Well, Mr. Speaker, I would be happy to offer you my opinion.

I think that the definition as it presently stands, which is not the subject of my amendment, the definition as it presently stands uses the word "consideration," and I think that is a word of legal import, and it implies quid pro quo. The word "consideration" in the law means anything of legal value which is given in exchange for something else. I think the folks who provided this definition—and I do not want to misinterpret it for them—were trying to distinguish two situations, one in which you are hired.

So, for example, let us say you are a lecturer, a professional lecturer, at a college, or you bill for a certain amount per hour for purposes of your speaking engagements. Then you are being hired in consideration for your services, and it is income. You declare it on your income tax form, and it comes within the purview of the Ethics Act. Now, if—

Mr. D. R. WRIGHT. It does or does not come within the purview of the Ethics Act?

Mr. O'DONNELL. It does. It is the kind of income that has to be considered here. Now, if it is not for services rendered, then it is an honorarium - so honorarium, honorific, meaning not for the service you rendered but rather in the nature of a gift, which is usually rendered, as I understand it, for ceremonial types of exercises as opposed to a business. If you have, for example, an expertise on an area of the tax law and you regularly render such expertise at a fee of \$200 an hour and somebody hires you to render that service, that is consideration for such services. If, however, somebody, as an honorarium, not in consideration for your services but rather in the nature of a gift, gives that to you for just appearing there, that is an honorarium, none of which is the subject of my amendment.

Mr. D. R. WRIGHT. But it is subject to your amendment if the person cannot accept it but rather must give it to a charity.

Mr. O'DONNELL. What I am doing, my amendment has one purpose and one effect only, and that is to permit, to clarify it so that the prohibition on honorarium will not extend to a situation in which a public official or employee appears and, by virtue of their appearance, a contribution is made to a charitable organization. That is the whole thing. So if you agree to speak in front of the Boy Scouts and they give you a \$500 gift for being there, that is an honorarium. If you agree to speak in front of an organization and they give a gift to the Boy Scouts because you came and spoke, that would be permitted under my amendment.

Mr. D. R. WRIGHT. My problem, Mr. Speaker, is determining whether or not that is an honorarium or whether or not it is a fee for services. Can you give me some guidance? I have spent a good deal of time, certainly before I came to the legislature, making speeches and making speeches for compensation. How will I be able— Strange as that may seem to folks. They will pay for almost anything. How am I to make a determination, Mr. Speaker, of whether or not that is a value—I am getting fee for a value—rather than an honor?

Mr. O'DONNELL. Mr. Speaker, I would suggest that the best guidance on the subject would probably be the United States income tax law.

If you are in the business of rendering services in the nature of speeches and that is the business that you are in and on your income tax form you indicate you receive income of that nature for that purpose, then I think that is consideration for services received. If, on the other hand, on your tax form you indicate that you are not in that business, do not take any deductions for your travel, et cetera, but rather you are prepared to pay a gift tax, then I would suggest that the Internal Revenue Code would give you ample guidance on that subject.

Mr. D. R. WRIGHT. Can you give me some guidance on how I can convey that notion to the Ethics Commission?

Mr. O'DONNELL. I am certainly not authoritative; I am not the author of the language about which I am being questioned, but I would offer for purposes of legislative intent one legislator's understanding that we ought to incorporate by reference for this purpose the Internal Revenue Code, but I will leave that to the Ethics Commission.

Mr. D. R. WRIGHT. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Lehigh, Mr. McHale, is recognized.

Mr. McHALE. Thank you, Mr. Speaker.

Would the gentleman, Mr. O'Donnell, stand for brief interrogation?

Mr. O'DONNELL. Yes, sir.

The SPEAKER. The gentleman indicates he will consent to interrogation. Representative McHale may proceed.

Mr. McHALE. Mr. Speaker, if this chamber does in fact adopt your amendment and a payment is made from a contributor to a charity, does the public official serve as a conduit for that payment or must the money go directly from the contributor to the charity? As an example, would your amendment authorize an elected official to give a speech to a trade association, accept a payment for \$500 for that speech, and 3 days later go to the Heart Association and make a contribution of \$500? Does it come in one hand and out the other, or in the alternative, does it merely authorize a direct payment, not through the elected official but immediately to the charity?

Mr. O'DONNELL. I did not hear the second hypothetical, but the answer is, it has to go directly.

Mr. McHALE. The answer is, it must go directly?

Mr. O'DONNELL. Directly.

Mr. McHALE. Mr. Speaker, may I speak on the amendment?

The SPEAKER. The gentleman indicates that he wishes to be recognized on the amendment and is in order at this time.

Mr. McHALE. Mr. Speaker, if this amendment authorized the elected official to personally serve as a conduit for such a contribution to a charity, I would have concerns with regard to its content. In effect, it would authorize a form of campaigning, a form of electioneering. But so long as the payment goes directly from the contributor to the charity, I have no objection to this amendment, and I would urge its passage.

The SPEAKER. The gentleman from Dauphin, Mr. Piccola, indicates he wants to be recognized on the amendment and is recognized.

Mr. PICCOLA. Mr. Speaker, would the maker of the amendment consent to interrogation?

The SPEAKER. The gentleman indicates that he will. You may proceed.

Mr. PICCOLA. Mr. Speaker, I do not see anywhere in the amendment where the limitation on payment is one to a charity. Would you explain how that is limited to a payment to a charity?

Mr. O'DONNELL. That question was just raised with me privately, Mr. Speaker, and I am almost inclined to reverse the question now. Let me answer broadly, if I may, first.

The attempt of the amendment was to clarify the definition of "honorarium" so it would be clear that people would be able to appear as long as they did not personally benefit. Now, I did not use the word "charitable" because I have myself appeared in front of groups, not taken honorarium, and had the money given to sports associations or whatever, and I am sure if I put the word "charity" in, then the next question would be, what is a charity, and the answer would be, a 501(c)(3) organization.

I cannot draft it any more tightly. If there is a concern in the House that the kind of legal expertise that has been focused on these issues this afternoon will now be turned to a manipulation of this language in such a way that someone other than the member, and yet, other than a charity, might be the beneficiary of that, I mean, if that— Let me just reverse it and abuse the parliamentary process and ask if that is the gentleman's sense. Is that the concern underlying?

Mr. PICCOLA. I think the gentleman is out of order, but that satisfies my inquiry, and in response to the majority leader, that is my concern. I do not claim to be a great legal expert, but that occurred to me that this would permit an honorarium to be paid to any entity other than the public official or the public employee, and that seems to me to create a lot of possible ways to get around the intent to prohibit honorariums to be paid.

I do not disagree with the gentleman's intent in permitting the payment to go to a charity, but I think we create a whole lot of other options under this amendment, and for that reason I would oppose it.

#### AMENDMENT WITHDRAWN

Mr. O'DONNELL. Mr. Speaker, for that reason I am going to withdraw it.

And if I may add, I am very interested at this point in expediting the debate on these matters rather than the legal niceties of the language. So perhaps good intentions, as I think I have argued to this gentleman in the past, are not enough, and if that is true, they are not enough in this case. And in an effort to move this thing forward and in recognition of the argument that has just been made, I withdraw the amendment.

The SPEAKER. The gentleman indicates that he withdraws the amendment now before the House.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. O'DONNELL offered the following amendment No. A0293:

Amend Sec. 1 (Sec. 5), page 18, line 14, by striking out "and" and inserting a comma

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the majority leader on the amendment.

Mr. O'DONNELL. Mr. Speaker, this takes out an "and" and inserts a comma. Absolutely no legal effect whatsoever.

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. May I have a brief conference with the majority leader?

The SPEAKER. The House will be at ease while the leaders of this House confer.

#### REMARKS ON VOTE

The SPEAKER. While the majority and minority leaders are conferring, the gentleman from Washington, Mr. Lescovitz, is recognized, who asks that his vote on amendment 312 to HB 105 be recorded in the negative, and those remarks will be spread upon the record.

#### STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. The gentleman from Philadelphia, Mr. Oliver, has an announcement of a meeting tomorrow that he can make at this time.

Mr. OLIVER. Thank you, Mr. Speaker.

The State Government Committee will be meeting as scheduled tomorrow morning at 10 o'clock in room 39E.

The SPEAKER. The chairman of the State Government Committee announces a meeting tomorrow morning at 10 a.m. as scheduled.

#### YOUTH AND AGING COMMITTEE MEETING

The SPEAKER. The gentleman from Columbia, Mr. Stuban, chairman of the Youth and Aging Committee, is recognized at this time for the purpose of an announcement.

Mr. STUBAN. Thank you, Mr. Speaker.

The meeting that is scheduled for the Youth and Aging Committee tomorrow morning at 9:30 will be held as scheduled.

The SPEAKER. The Youth and Aging Committee meeting tomorrow morning at 9:30 will be held as scheduled.

## CONSIDERATION OF HB 75 CONTINUED

### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes the majority leader, who indicates at this time that the amendment before the House is being withdrawn.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. REBER offered the following amendment No. A0320:

Amend Sec. 1 (Sec. 2), page 7, line 9, by inserting after "services"

which are nonpublic occupational or professional in nature

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber, on the amendment.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, this amendment before us, 320, is a followup amendment replacing an earlier one circulated, amendment A272. So you can discard A272. The reason I say that is, A272 was originally agreed to by the proponents of this legislation on the other side of the aisle, and then we conferred and felt we could even more strictly and narrowly tighten this. We redrafted the language, which I am now proposing in amendment 320.

In short, Mr. Speaker, I think it is the intent under the act, as set forth in section 1, subparagraph (b), the "purpose" section, on line 30 on page 2 and lines 2 and 3 on page 3, that public officials and public employees should not be discouraged from maintaining their contacts with their community through their occupations and professions. As a result of that, Mr. Speaker, since we are now in essence outlawing, if you will, or making illegal the opportunity of taking honorariums, which I agree with—we should do away with that—I want to make it specifically clear that an individual is not prohibited under the definition on page 7, starting on line 7, in the "honorarium"-definition section, from taking the compensation or consideration for the value of services which are in fact nonpublic in his occupation or nonpublic in his profession. Therefore, the language in the amendment is adding after the word "services" on line 9, "...services which are nonpublic occupational or professional in nature."

By way of example, Mr. Speaker, I am desirous of seeing that, for instance, a Lehigh County commissioner who happens to be a lecturer or part-time professor at, say, Lehigh County Community College is not prohibited from receiving

remuneration for those speeches, appearances, presentations he might make. Similarly, I would not want to see a municipal supervisor or a municipal commissioner in Luzerne County who may be a stockbroker by profession being prohibited from taking remuneration for services he renders for a column he might write in his professional capacity for the Wilkes-Barre Times newspaper.

So in short, Mr. Speaker, I think if it is obvious that the profession and occupation, nonpublic in nature, is being carried out, that a person who does receive payment in recognition of those publications, those lectures, those speeches, et cetera, can in fact receive that remuneration.

I would ask for an affirmative vote on the amendment.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum, on the amendment.

Mr. BLAUM. Thank you, Mr. Speaker.

I ask that the House approve this amendment.

While we were working on the definition of "honorarium," there was always that problem area, and I think Mr. Reber today has come up with the language which solves our problem without going too far.

We do not want public officials to be able to accept the honorariums—of course, that was our goal—from the so-called special interest groups, speaking about legislative matters before them and getting paid for it. But just banning that was not enough, because then what prohibits a public official from circumventing that by talking about the weather before a special interest group and then getting paid for that? So we could not make it that broad.

I believe that Representative Reber has found the language that allows professionals and those who have an occupation to go on with their business without breaking the intent of this bill by conducting that business or speaking before a group which would otherwise not be interested in the subject matter of that attorney who is appearing before them.

It was a very difficult job coming up with the language. We hope that we have done it, and I ask that the members approve the Reber amendment.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell, on the amendment.

Mr. COWELL. Thank you, Mr. Speaker.

Would Mr. Reber consent to interrogation, please?

The SPEAKER. The gentleman indicates he will consent, and you may proceed.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I understand the intent of the proposed amendment and the desire not to preclude individuals who come from different occupations and professions from perhaps pursuing that kind of work. I do worry a bit that every time we create exceptions, sometimes we are not quite sure who all is covered by the exceptions. For instance, in the broad category of lawyers, who are professionally trained to work with the law, would this language, if it were adopted and made part of the ethics legislation, permit lawyers to go about and to accept honoraria for the purpose of speaking about the law to any group?

Mr. REBER. I think the gentleman is aware of the First Amendment like I am, and I do not think that would prohibit freedom of speech.

Mr. COWELL. No, I am not worried about prohibiting freedom of speech; I am concerned about opening up the prospect of collecting honoraria for a limited number of professions.

Let me ask the question in a different way. If this amendment were adopted and made a part of the law, would a lawyer who was asked to appear before a group to speak about existing law in a particular area—it may well be something that the legislature recently acted upon or it might be something that has been a part of the law for some period of time, but nonetheless was asked to come and speak about the law—would that individual be, under your amendment, eligible to collect an honorarium?

Mr. REBER. I think, Mr. Speaker, it is determinative upon the particular event that he is at, the capacity in which he is appearing, the manner in which he was invited, the purpose for which he was invited, the topic, et cetera, et cetera, et cetera. I think you are getting into an area of hypothetical that could go on forever and a day.

I would submit that the distinction has to be made to allow those that are serving in capacities as public officials at the local level, the State level, to be in a position to carry on that nonpublic aspect of their work, and when it goes from the nonpublic aspect to the public-official or public-employee aspect, obviously there is an intent to preclude honoraria in that area. I do not think there should be any intent to preclude compensation intended as consideration for value of such services rendered in the profession or the occupation nonpublic in nature.

Mr. COWELL. Well, Mr. Speaker, I understand, again in the case of a lawyer, you clearly would not want to preclude an individual from providing legal advice to a client or even a group of clients and being compensated, but I am worried about opening up a loophole where somebody, some organization, that might in fact be looking for a way of circumventing the prohibitions of this law might say, you are a lawyer—not you personally but the guest who is being invited to come and speak—you are a lawyer; we want to offer you an honorarium; we will shape the subject matter so that you are eligible to collect an honorarium this evening; we will pick some broad issue pertaining to the law because you are a lawyer, and we will ask you to speak about that and then we will pay you. That is not a concern?

Mr. REBER. Mr. Speaker, I cannot answer the question any more specifically than I have already as to specific instances. I do not think that there is any way an individual who may be an attorney as well as a public official is going to be in a position to accept anything that relates to that public status, that public-official status that he surrounds himself with, during that particular presentation, appearance, or speech. If he does surround himself with that status and obviously is holding himself out at that point in time, then that would be prohibited to the extent of receiving some form of

payment; i.e., an honorarium. But if in fact he is acting in his professional or occupational capacity, that certainly would not preclude him from doing that.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, if I might comment on the amendment.

The SPEAKER. The gentleman is in order for remarks on the amendment.

Mr. COWELL. Mr. Speaker, unlike the previous two speakers who have spoken in support of this amendment, I do have some very real concerns about a loophole that might be created for some public officials who belong to certain professions or have certain occupations. I think that for those who would want to circumvent the law—And that has always been a concern about this ethics legislation, the concern that it is applied to everybody and often we do not need these laws for lots of people but we need to be concerned about those who would seek to circumvent the law, those who look for the loophole. I am afraid that this language might in fact create a loophole for those who really want to circumvent the prohibition about honoraria. In the case of attorneys or in the case of some other individuals from certain other professions, one might be able to in fact invite them to speak, want to offer them honoraria, want to make it legal, and so you consequently shape the subject matter for the evening around their profession so that you meet the requirement of this particular amendment which is being suggested for the legislation. I do not know what the answer is. That might purely be an unfounded concern as well. We could speak about all kinds of hypothetical situations.

But I do want to express a concern that we are opening up a loophole for a limited number of professions, and we might well find ourselves with this section of the law being abused if in fact we add it to the law. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

Very briefly, notwithstanding some of the concerns that have been voiced, I would suggest that this is a very appropriate amendment, and I would simply remind the House that Mr. Reber's amendment does not remove what is still the most operative language, which is that the presentation, whatever it would be - speech or published work - that the payment for that, "...which is not intended as consideration for the value of such services." So the bottom line is still that in order to be an honorarium, the sum that is paid has to be not an arm's-length transaction, not the same kind of transaction that anyone who is in the private sector, without having the public office, could get.

In my years as a lawyer I have never had anybody offer me any money to speak about anything, except for teaching classes at a community college. I strongly doubt that there will be many situations, especially given the additional language which this amendment would insert, which are going to lend themselves to a situation where somebody can really cash in on their public position by receiving a payment for a speech under the guise of their being a lawyer. It will certainly protect

those in other professions, such as teaching, such as writing, who would legitimately engage in these activities for pay.

For that reason I think that this is an appropriate amendment and would urge its adoption. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Colafella.

Mr. COLAFELLA. Mr. Speaker, will the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation.

Mr. COLAFELLA. Mr. Speaker, let me make sure I understand this amendment. I am a former educator. If I am asked to speak at an educational conference on education, would I be able to get an honorarium as an educator?

Mr. REBER. First of all, Mr. Speaker, I think you disqualified yourself using the word "former." Okay? I think that is the key word as you prefaced the scenario.

Let me further exemplify—and I think it is a followup on the remarks of Representative Cowell in the interrogation—I have to agree wholeheartedly with Representative Heckler that the key operative language that exists in the bill at the current time without the amendment allows exactly in my mind but in a much unclearer fashion exactly what we are trying to clarify and narrowly define and tightly construe with the addition of the language that we are proposing in this amendment, because, basically, everything that is allowed with the amendment I think many people would say is also allowed without the amendment. But to avoid ambiguity, to be consistent with the "purpose" section of the act, to avoid gray areas, and most importantly, to avoid many of the scenarios that I exemplified early on with the county commissioner, with the governing-body municipal official, be it supervisor or township commissioner, those types of situations, I think where you have acting in both dual capacities and that dual capacity is moving in the nonpublic occupational sector, there is no honorarium consideration, in my mind, either under the act as drawn currently or certainly as narrowly defined by the addition of the amendment.

So I think, getting back to your specific question, you are dealing in a single capacity as a public official, I assume, since you are no longer that "former educator."

Mr. COLAFELLA. Well, let me give you another scenario. Let us say tomorrow I substitute teach and I now am an educator. Okay? Next week now I am asked to speak at an educational conference. What you are saying is that I cannot be paid as an educator, but it is okay for a lawyer to get paid for his services.

Mr. REBER. I never suggested anything about a lawyer. That was Representative Cowell. You will have to counsel with him.

Mr. COLAFELLA. Well, I know. But what I am saying is that people who have professions in here are unable to—

Mr. REBER. Mr. Speaker, I am having an extremely hard time hearing the gentleman. I really cannot respond to his questions because I cannot hear him.

The SPEAKER. Will the House please be in order.

The debate is important. The questions are pointed. Members are entitled to hear the debate, the questions and answers, and I ask you, please, to keep your conversation to a minimum and the level of the conversation at a low decibel.

The gentleman may proceed.

Mr. COLAFELLA. Mr. Speaker, let us assume that as an educator I am invited to speak to a national conference of educators and I am now an educator. Okay? Can I be paid for my services as an educator even though I am serving in this job?

Mr. REBER. If in fact they are contacting you for your professional services as an educator, I would submit that you could receive consideration for the value of those professional services rendered; yes.

Mr. COLAFELLA. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker.

Would the gentleman, Mr. Blaum, consent to brief interrogation?

The SPEAKER. The gentleman, Mr. Blaum, is being asked whether he will consent to interrogation.

Mr. BLAUM. Yes.

The SPEAKER. The gentleman indicates that he will. Mr. Freind may proceed.

Mr. FREIND. Thank you, Mr. Speaker.

Mr. Speaker, I can sympathize with you because you have been asked a huge number of hypotheticals today. Unfortunately, I have two more to ask you, and it is not meant to debate. I mean, I really am interested to know the answers.

Number one, under the language right now and the Reber language, let us say that a legislator is asked to be a guest lecturer at a college or to teach a course on practical politics. Can he do it and can he get paid for it?

Mr. BLAUM. Yes.

Mr. FREIND. Okay. Even though the fact that his expertise is because he is in the legislature and in politics, that is okay?

Mr. BLAUM. To my way of thinking, if you are hired to teach a course, if you are hired to do something, that is fine. But if you are just asked to give a speech and expect to be paid for it, that is not okay. The hypothetical that always comes up, if you do not mind me saying this, is, what about the legislator who writes a book?

Mr. FREIND. That is question number two.

Mr. BLAUM. And that is the great one.

Can the legislator who writes the book go and give a speech before the Insurance Federation and get paid for it? No. But can the legislator who writes a book be asked to go to California to speak to some publishing company about the contents of it, as a lecturer on either the substance of it or because of something he worked hard on and did separate and apart? That is okay. Trying to write that into law was very, very difficult. We took the definition of "honorarium" that was in the regulations of the Ethics Act.

This Representative is not about creating loopholes in this bill, and I believe that Representative Reber has found appropriate language that allows a lawyer to give a speech maybe on behalf of his client and get paid for it, but if that lawyer goes and gives a speech before the Trial Lawyers Association and they want to give him a \$1,000 honorarium, no.

The bottom line here is we can come up with all kinds of hypotheticals, but if there is private pecuniary benefit other than compensation by law, the best thing to do is you call the Ethics Commission and in 14 days they have an answer to you. If it is the wrong answer, nothing can happen to you if you go and do it; I mean, if they mislead you. That is the best thing to do to prevent any problems. And members in this General Assembly and elsewhere are on a day-to-day basis calling the Ethics Commission asking guidance for something they are involved in. That is the solution to the problem.

Mr. FREIND. Was any thought given to the fact, Mr. Speaker, that the arena we are opening up here for interpretation, the incredible confusion that can ensue, the judgment calls that can be made outweigh the benefit of cutting off honoraria, which has never been a big ticket item for State legislators anyway?

Mr. BLAUM. Which has never what?

Mr. FREIND. Been a big ticket item for State legislators.

Mr. BLAUM. When I weigh the benefit of cutting them off versus what little confusion I see— Because if there is a check involved, it should be a red flag to every one of us to either go check it out or do not take it. That to me, when there is a check involved, that is the key, that is the red flag that should make every one of us stop dead in our tracks and think. Now, does the benefit outweigh that? I absolutely believe the benefit outweighs that.

Honorarium, in my mind, is on its way if not already causing very serious, very serious problems in the Nations's Capital. We have said from the beginning when we put this in the bill that it is not a major problem in Harrisburg yet, but more and more and more people are being offered honorariums. We believe that to head it off, to cut it off at the pass, to nip this problem in the bud, we should ban them right now that we have an opportunity with the ethics bill before us.

Mr. FREIND. Well, just let me give you an example. Let us say there is a legislator who writes novels. His second novel, a novel of passion and power and pathos set in the South Jersey shore, hits big, is for 50 weeks on the New York Times bestseller list, gets made into a movie, and he is asked to go around the country and speak. Now, what you are saying— Yes, I know it is a very darn hypothetical.

Mr. BLAUM. We do not have to worry about that.

Mr. FREIND. But you did not have to say that.

Now, here is the point. Probably no problem at all if a library association in Colorado wants him, but businesses have always wanted people from different fields who accomplish things to go in and speak. I mean, a manufacturing company might want a James Michener. Clancy is one of the biggest items. You name it, they want him. Where do you draw the line? In other words, that is okay if the majority—

Mr. BLAUM. Okay. You know where you draw the line? If this book is as big a hit and you are selling books hand over fist and the TV movie is being made and you want to sit in this legislature, you go and make the speech; you just do not take the check. If there is a check involved, the red flag goes up, and you either call the Ethics Commission to find out, can I take it, or, because your movie is such a big hit you do not need the check, you turn it down. That is it. What we are saying here is, if you want to sit here, here is yet another, yet another sacrifice that has to be made.

Mr. FREIND. That is fine.

Mr. Speaker, a brief comment.

The SPEAKER. The gentleman is in order to speak on the amendment.

Mr. FREIND. I can understand what you are saying and the whole thing has been a hypothetical, but I think the problem that we are opening up to with this amendment, it becomes very, very, very subjective. Either you want to ban all honoraria or you do not. And I will tell you something: Every time we have to make a decision, to contact the Ethics Commission and wait 14 days is kind of ridiculous. It is subjugating us on personal decisions we are going to make every time you turn around. It is like being a little bit dead. It ought to be yes, we can, or no, we cannot.

I think this amendment is well intentioned, but I can see where it could do a heck of a lot more harm than good. Thank you, Mr. Speaker.

#### MR. ITKIN REQUESTED TO PRESIDE

The SPEAKER. The Chair recognizes, on the question of the amendment, the gentleman from Montgomery, Mr. Lashinger.

But before the gentleman speaks, the Chair would like to ask the Representative from Allegheny, Mr. Itkin, to preside for the Speaker.

#### THE SPEAKER PRO TEMPORE (IVAN ITKIN) IN THE CHAIR

#### CONSIDERATION OF HB 75 CONTINUED

The SPEAKER pro tempore. The gentleman from Montgomery is in order and may proceed.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, would the gentleman, Mr. Blaum, consent to a brief interrogation?

Mr. BLAUM. Yes.

The SPEAKER pro tempore. The gentleman agrees, and the gentleman from Montgomery is in order.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, I would agree with Mr. Freind's conclusions based on your answers, but I am going to give you an opportunity to rethink some of your answers to what the Reber amendment does. I am trying to help, because I think that Mr. Reber did strike not a perfect balance but a better balance here with his amendment.

One of the hypotheticals that you used was the lawyer who runs off to speak at what you called the Trial Lawyers convention and is paid \$1,000. With the Reber amendment, if that lawyer who happened to be a legislator spoke on an issue that was not the legislative process but instead was a criminal trial, a noted criminal trial that he served as defense counsel in, that would be an accepted honorarium with the Reber amendment. Is that correct?

Mr. BLAUM. Well, not to my way of thinking; no.

Mr. LASHINGER. Oh. I am confused then, Mr. Speaker. I just want to repeat that then again. Because it is unrelated to his experience - though he is a lawyer-legislator, it is unrelated to his legislative experience - he could accept the honorarium now with the Reber amendment. Is that correct, in your opinion?

Mr. BLAUM. In my opinion? No.

Mr. LASHINGER. Oh. Okay. Then I do agree with Mr. Freind.

Thank you, Mr. Speaker. That is the end of my interrogation.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, now I will change my opinion. While I still support the Reber amendment because of what I thought it did, I agree with Mr. Freind's conclusion. It was Mr. Reber's intention and my intention and that of so many others to say that you could accept an honorarium so long as it did not spring from your role as a public employee or a public official. So if you say no to Reber or to any other lawyer who attends a convention to speak on his area of expertise outside of his or her role as a legislator, then you have got to say no to Colafella and you have got to say no to Freind and you have got to say no to the insurance agent who speaks on that. Mr. Blaum, I think for legislative intent, is destroying what are the efforts of the Reber amendment.

I do not know how to conclude this, Mr. Speaker. I agree with the intent of the Reber amendment, but I am fearful that what Mr. Blaum has now put on the record destroys what Mr. Reber is attempting to accomplish, and that is to take those of us who do something outside of this profession out of that honorarium prohibition when we continue to practice our occupation separate and apart from being legislators.

So I support the Reber amendment, Mr. Speaker, but would hope that Mr. Blaum would—

I am sorry. Would Mr. Blaum consent to another interrogation?

The SPEAKER pro tempore. The gentleman says he will, and the gentleman from Montgomery is in order to ask the question.

Mr. BLAUM. My point is and why I disagree and why if I were an attorney who handled the greatest criminal case in the world and I am a Representative and the Trial Lawyers want to hear about it, in my view, if there is a check involved, the red flag goes up because, in my opinion, the reason I am being invited is because I happen to be a member of the legislature.

Now, whether or not some group often— And I believe that the professional would do himself good to get an opinion, an advisory opinion, as to whether or not he would be able to accept payment for that. I mean, I can give my opinion; you can give your opinion, Mr. Speaker; and Representative Reber can give his opinion.

I favor the amendment, and I hope that it is adopted.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery, Mr. Reber, for the second time on the amendment.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I hope every member of the body would at least give me attention for a few seconds to clarify what is my intent, my intent as the maker of the amendment, as to what is to be accomplished. I want to suggest one thing and emphasize one thing, and I did not say this at the outset, and I think it is very important to keep in mind.

You have to recognize that under current law honorariums are legal. Under the proposed bill before us, honorariums would be illegal and would be a felony conviction if someone was to engage in and be found convicted of such conduct. With that in mind, I think it is abundantly important to differentiate what is meant by payments that are made in recognition of certain activities that in fact are not illegal conduct, are not intended to be illegal conduct under this new proposed act, and more importantly, that are permissible conduct, and how far that permissible conduct can go before it would fall into a payment in the form of an illegal honorarium. Now, that is the important distinction you have to make.

I could care less about what is going on if we were not making, quote, "honorariums" now illegal. I think everyone wants to know and, more importantly, people out there in the local environs want to know what this is, if you are a public official or a public employee, and how far you can go and how far you cannot go, because you never had that problem heretofore, assuming this becomes law, because you could avoid any kind of violation by simply reporting what you were not sure at that time was remuneration as a source of income as opposed to an honorarium. Both of those are legal under current law. This makes honorariums for public service presentations, speeches, et cetera, now to be illegal hereafter.

So that is why, in my mind, I think it is abundantly important that we know where the nonpublic occupational and professional service remuneration that you receive is legal and where a person in the public sector, as a public service official or employee, is now taking an illegal honorarium. That is the sole purpose for the amendment. It is not to create any loopholes. It is not to give favorite status to any particular individual. It is simply to define what is legal conduct and hopefully define what is illegal conduct in the hereafter taking of illegal honorariums. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Cowell, for the second time.

Mr. COWELL. Mr. Speaker, I would just make the observation, if you have listened to what the last three speakers have had to say, they have argued with one another and they





Cappabianca	Hayden	Mrkonic	Taylor, J.
Carlson	Hayes	Murphy	Telek
Cawley	Heckler	Nahill	Thomas
Chadwick	Herman	Nailor	Tigue
Civera	Hershey	O'Brien	Trello
Clark, D. F.	Hess	O'Donnell	Trich
Clark, J. H.	Howlett	Oliver	Van Horne
Clymer	Hughes	Perzel	Veon
Colaifella	Itkin	Petrarca	Vroon
Colaizzo	Jackson	Petrone	Wambach
Cole	Jadlowiec	Phillips	Wass
Cornell	James	Piccola	Weston
Corrigan	Jarolin	Pievsky	Williams
Cowell	Johnson	Pitts	Wilson
Coy	Josephs	Pressmann	Wogan
DeLuca	Kaiser	Preston	Wozniak
DeWeese	Kasunic	Raymond	Wright, D. R.
Daley	Kenney	Reber	Wright, J. L.
Davies	Kondrich	Reinard	Wright, R. C.
Dempsey	Kukovich	Richardson	Yandrisevits
Dietterick	LaGrotta	Rieger	
Dininni	Langtry	Ritter	Manderino,
Distler	Lashingner	Robbins	Speaker
Dombrowski			

NAYS—0

NOT VOTING—10

Clark, B. D.	Harper	Michlovic	Rudy
Cohen	Kosinski	Pistella	Scrimenti
Gruitza	Mayernik		

EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendments were agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—189

Acosta	Donatucci	Laughlin	Roebuck
Adolph	Dorr	Lee	Rudy
Allen	Durham	Leh	Ryan
Angstadt	Evans	Lescovitz	Rybak
Argall	Fairchild	Levdansky	Saloom
Barley	Farmer	Linton	Saurman
Belardi	Fleagle	Lloyd	Scheetz
Belfanti	Flick	Lucyk	Schuler
Billow	Foster	McCall	Scrimenti
Bishop	Fox	McHale	Semmel
Black	Freeman	McNally	Serafini
Blaum	Freind	McVerry	Smith, B.
Bortner	Gallen	Maiale	Smith, S. H.
Bowley	Gannon	Maine	Snyder, D. W.
Boyes	Geist	Markosek	Snyder, G.
Brandt	George	Marsico	Staback
Broujos	Gigliotti	Melio	Stairs
Bunt	Gladeck	Merry	Steighner
Burd	Godshall	Michlovic	Stish
Burns	Gruitza	Micozzie	Strittmatter
Bush	Gruppo	Miller	Stuban
Caltagirone	Hagarty	Moehlmann	Tangretti

Cappabianca	Haluska	Morris	Taylor, E. Z.
Carlson	Harper	Mowery	Taylor, F.
Cawley	Hasay	Mrkonic	Taylor, J.
Chadwick	Hayden	Murphy	Telek
Civera	Hayes	Nahill	Thomas
Clark, B. D.	Heckler	Nailor	Tigue
Clark, D. F.	Herman	O'Brien	Trello
Clark, J. H.	Hershey	O'Donnell	Trich
Clymer	Hess	Oliver	Van Horne
Cohen	Howlett	Perzel	Veon
Colaifella	Hughes	Petrarca	Vroon
Colaizzo	Itkin	Petrone	Wambach
Cole	Jackson	Phillips	Wass
Cornell	Jadlowiec	Piccola	Weston
Corrigan	James	Pievsky	Williams
Cowell	Jarolin	Pitts	Wilson
Coy	Johnson	Pressmann	Wogan
DeLuca	Josephs	Preston	Wozniak
DeWeese	Kaiser	Raymond	Wright, D. R.
Daley	Kasunic	Reber	Wright, J. L.
Davies	Kenney	Reinard	Wright, R. C.
Dempsey	Kondrich	Richardson	Yandrisevits
Dietterick	Kukovich	Rieger	
Dininni	LaGrotta	Ritter	Manderino,
Distler	Langtry	Robbins	Speaker
Dombrowski	Lashingner	Robinson	

NAYS—0

NOT VOTING—4

Battisto	Kosinski	Mayernik	Pistella
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EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

\* \* \*

The House proceeded to third consideration of **HB 75, PN 470**, entitled:

An Act reenacting and amending the act of October 4, 1978 (P. L. 883, No. 170), referred to as the "Public Official and Employee Ethics Law," adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; and making an appropriation.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. HECKLER offered the following amendments No. A0294:

Amend Sec. 1 (Sec. 7), page 24, line 9, by striking out "~~requested~~ ~~filed~~" and inserting [requested] filed

Amend Sec. 1 (Sec. 8), page 27, line 5, by striking out "~~(f)~~" and inserting (g)

Amend Sec. 1 (Sec. 8), page 29, lines 12 through 18, by striking out all of lines 12 through 17, "~~(j)~~" in line 18 and inserting (i)

Amend Sec. 1 (Sec. 8), page 29, line 23, by striking out “(k)” and inserting

(j)  
Amend Sec. 1 (Sec. 8), page 29, line 28, by striking out “(L)” and inserting

(k)  
Amend Sec. 1 (Sec. 9), page 30, line 27, by striking out “8(k)” and inserting

8(j)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

This and the following amendments, I believe, are each agreed to by the prime sponsor of this legislation.

This amendment would strike the section which provides for a statute of limitations beyond 5 years on actions by the commission. This language is rendered in conflict by an amendment that was placed in the bill in the Appropriations Committee, which provides for a 5-year statute of limitations for action by the commission.

Let me make clear that the criminal statute of limitations, which is contained in other parts of Pennsylvania law, is not affected by this change. Criminal penalties for violation of the Ethics Act brought in the court of common pleas are unaffected by this, but it does shorten the period of time in which actions would be brought before the Ethics Commission.

I would urge the adoption of the amendment.

The SPEAKER. The Chair recognizes the majority leader on the amendment.

Mr. O'DONNELL. I would like to interrogate the gentleman, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Heckler, indicates that he will stand for interrogation. You may proceed.

Mr. O'DONNELL. I am just trying to understand first what the amendment is and then what it does.

You are striking the statute of limitations that is in the bill and returning it to current law. Is that correct?

Mr. HECKLER. I do not have current law before me, and I will confess ignorance. I believe section (L) on page 29, which was the amendment that went in in the Appropriations Committee, says, “The commission may conduct an investigation within five years after the alleged occurrence of any violation of this act.” That was inserted.

I am not aware of whether there is in fact any statute of limitations in current law. It is—

Mr. O'DONNELL. Let me interrupt you, Mr. Speaker. What page are you referring to and what line?

Mr. HECKLER. Page 29. The language which was inserted is at lines 28 and 29, the bottom of the page, and that would appear to be in conflict with the language I am removing, which is at lines 12 through 17 on that same page.

Mr. O'DONNELL. And your amendment is removing the language from lines 12 to 17?

Mr. HECKLER. That is correct.

Mr. O'DONNELL. Is it also removing the language at lines 28 and 29?

Mr. HECKLER. No; it is not. That language remains, and that language would now control.

Mr. O'DONNELL. I see.

What do you understand to be the impact of the deletion of that language from 12 to 17?

Mr. HECKLER. In other words, the impact if my amendment were not enacted?

Mr. O'DONNELL. What is the impact of the adoption of your amendment deleting that language?

Mr. HECKLER. It eliminates the conflicting language, and the language which is being deleted provides that there may be actions by the commission during the entire period of time that a person is in public office or public employment or 5 years thereafter. That is similar to language in Title 42 concerning violations of public office which involve criminal conduct. That, of course, is unaffected by this. So we are not affecting the criminal statute of limitations for criminal violations but we are now saying that the Ethics Commission can only commence an investigation and an action under the commission law within 5 years of the occurrence.

Mr. O'DONNELL. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—190

Acosta	Dombrowski	Lashinger	Robbins
Adolph	Donatucci	Laughlin	Robinson
Allen	Dorr	Lee	Roebuck
Angstadt	Durham	Leh	Rudy
Argall	Evans	Lescovitz	Ryan
Barley	Fairchild	Levdansky	Rybak
Battisto	Farmer	Linton	Saloom
Belardi	Fleagle	Lloyd	Saurman
Belfanti	Flick	Lucyk	Scheetz
Billow	Foster	McCall	Schuler
Bishop	Fox	McHale	Scrimenti
Black	Freeman	McNally	Semmel
Blaum	Freind	McVerry	Serafini
Bortner	Gallen	Maiale	Smith, B.
Bowley	Gannon	Maine	Smith, S. H.
Boyes	Geist	Markosek	Snyder, D. W.
Brandt	George	Marsico	Snyder, G.
Broujos	Gigliotti	Mayernik	Staback
Bunt	Gladeck	Melio	Stairs
Burd	Godshall	Merry	Steighner
Burns	Gruitza	Michlovic	Stish
Bush	Gruppo	Micozzie	Strittmatter
Caltagirone	Hagarty	Miller	Suban
Cappabianca	Haluska	Moehlmann	Tangretti
Carlson	Harper	Morris	Taylor, E. Z.
Cawley	Hasay	Mowery	Taylor, F.
Chadwick	Hayden	Mrkonic	Taylor, J.
Civera	Hayes	Murphy	Telek
Clark, B. D.	Heckler	Nahill	Thomas
Clark, D. F.	Herman	Nailor	Tigue
Clark, J. H.	Hershey	O'Brien	Trello
Clymer	Hess	O'Donnell	Trich
Cohen	Hughes	Oliver	Van Horne
Colafella	Itkin	Perzel	Veon
Colaizzo	Jackson	Petrarca	Vroon
Cole	Jadlowiec	Petrone	Wambach
Cornell	James	Phillips	Wass
Corrigan	Jarolin	Piccola	Weston
Cowell	Johnson	Pievsky	Williams

Coy	Josephs	Pitts	Wilson
DeLuca	Kaiser	Pressmann	Wogan
DeWeese	Kasunic	Preston	Wozniak
Daley	Kenney	Raymond	Wright, D. R.
Davies	Kondrich	Reber	Wright, R. C.
Dempsey	Kosinski	Reinard	Yandrisevits
Dietterick	Kukovich	Richardson	
Dininni	LaGrotta	Rieger	Manderino,
Distler	Langtry	Ritter	Speaker

NAYS—0

NOT VOTING—3

Howlett	Pistella	Wright, J. L.
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EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. HECKLER offered the following amendments No. A0300:

Amend Sec. 3 (Sec. 12), page 33, line 24, by striking out “(A)”

Amend Sec. 3 (Sec. 12), page 33, lines 27 through 30; page 34, lines 1 through 3, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

This amendment corrects what I think would be a major weakening of the bill by part of an amendment which was inserted in the Appropriations Committee. This amendment would remove the language at the bottom of page 33 which provides that this legislation be the exclusive place in which all language concerning ethical conduct by public officials is located and specifically repealing all other such language.

I would suggest, Mr. Speaker, that the language of this amendment which I seek to remove is at best ill considered. As the bill reads presently, I would suggest that even direct criminal conduct, let us say a police officer accepting a bribe, might be argued to now be controlled only by the provisions of the Ethics Law as opposed to the criminal statutes of Pennsylvania. Certainly the various enactments of this legislature in which we have specifically held various public agencies and authorities to higher standards of conduct than are set forth in the Ethics Law would be repealed. I think that is something we do not want to do, and I would urge the adoption of this amendment.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McNally, on the amendment.

Mr. McNALLY. Would the gentleman stand for interrogation, please?

The SPEAKER. The gentleman indicates that he will stand for interrogation. Mr. McNally may proceed.

Mr. McNALLY. Mr. Speaker, according to the bill on page 33, line 29 and continuing on line 30, and then on page 34, it states that “Therefore, in the event of a conflict between this act and any other civil or criminal statute,...” and then it continues on. Your statement before was that this provision would make the Ethics Act the exclusive statute or regulation governing governmental ethics. Does not this provision in fact say that it is exclusive only in the event of a conflict? Therefore, when there is no conflict between this act and another statute, both may apply.

Mr. HECKLER. That is correct, Mr. Speaker. However, the very point of this matter is that there are many conflicts, as I pointed out, potentially with criminal statutes, also with a number of the statutes creating various State boards and agencies, in which there are conflicts in which the requirements we have placed on those particular entities are more stringent than those enacted in the ethics bill that is before us.

I would also point out that this language at least attempts to be prospective. I am not sure that that can be done based on the Statutory Construction Act, but the language that I am seeking to take out of this bill attempts to say that even if we decide in the future that we are going to impose a more restrictive provision upon some agency we would create, that we cannot do that and that it is the Ethics Act that governs.

So you are correct to the extent that if there would not be a conflict, this issue would not arise, but in fact there are a number of conflicts in existing law, let alone what we might choose to do in the future.

Mr. McNALLY. Would the gentleman stand for another question?

Mr. Speaker, the sponsor of the amendment indicated before that this amendment would weaken the Ethics Act. However, in fact this provision states that where there is a conflict, this Ethics Act will prevail. Would that not in fact make the Ethics Act stronger because it would prevail over other statutes and other regulations?

Mr. HECKLER. Well, I will stand corrected on my nomenclature. Let us say that this amendment, that the language that I am seeking to take out, weakens the overall ethics requirements we have imposed upon various bodies of government to the extent that it makes this act, with provisions we have deemed appropriate for all entities, prevail over other law. Whether that is weaker or stronger, it leads to weaker ethical standards, at least in certain parts of our government. And as I say, in particular, I am concerned that given the language that I am seeking to remove, which refers to both criminal and civil proceedings, we may be creating a defense for people who step over the line, who plainly involve themselves in acts which have traditionally been criminal violations in this Commonwealth.

Mr. McNALLY. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—187

Acosta	Donatucci	Laughlin	Robinson
Adolph	Dorr	Lee	Roebuck
Allen	Durham	Leh	Rudy
Angstadt	Evans	Lescovitz	Ryan
Argall	Fairchild	Levdansky	Rybak
Barley	Farmer	Linton	Saloom
Battisto	Fleagle	Lloyd	Saurman
Belardi	Flick	Lucyk	Scheetz
Belfanti	Foster	McCall	Schuler
Billow	Fox	McHale	Scrimanti
Bishop	Freeman	McNally	Semmel
Black	Freind	McVerry	Serafini
Blaum	Gallen	Maiale	Smith, B.
Bortner	Gannon	Maine	Smith, S. H.
Bowley	Geist	Markosek	Snyder, D. W.
Boyes	George	Marsico	Snyder, G.
Brandt	Gigliotti	Mayernik	Staback
Broujos	Gladeck	Melio	Stairs
Bunt	Godshall	Merry	Steighner
Burd	Gruitza	Michlovic	Stish
Burns	Gruppo	Micozzie	Strittmatter
Bush	Hagarty	Miller	Stuban
Caltagirone	Haluska	Moehlmann	Tangretti
Cappabianca	Harper	Morris	Taylor, E. Z.
Carlson	Hasay	Mowery	Taylor, F.
Cawley	Hayden	Mrkonic	Taylor, J.
Chadwick	Hayes	Murphy	Telek
Civera	Heckler	Nahill	Thomas
Clark, B. D.	Herman	Nailor	Tigue
Clark, D. F.	Hershey	O'Brien	Trich
Clark, J. H.	Hess	O'Donnell	Van Horne
Clymer	Hughes	Oliver	Veon
Colafella	Itkin	Perzel	Vroon
Colaizzo	Jackson	Petrarca	Wambach
Cole	Jadlowiec	Petrone	Wass
Cornell	Jarolin	Phillips	Weston
Corrigan	Johnson	Piccola	Williams
Cowell	Josephs	Pievsy	Wilson
Coy	Kaiser	Pitts	Wogan
DeLuca	Kasunic	Pressmann	Wozniak
DeWeese	Kenney	Raymond	Wright, D. R.
Daley	Kondrich	Reber	Wright, J. L.
Davies	Kosinski	Reinard	Wright, R. C.
Dempsey	Kukovich	Richardson	Yandrisevits
Dietterick	LaGrotta	Rieger	
Dininni	Langtry	Ritter	Manderino,
Distler	Lashinger	Robbins	Speaker
Dombrowski			

NAYS—3

Cohen	James	Trello
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NOT VOTING—3

Howlett	Pistella	Preston
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EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. HECKLER offered the following amendments No. A0313:

Amend Bill, page 35, by inserting after line 30 Section 11. This act shall apply as follows:

(1) Section 1 (the definitions in section 2 of the act that are used in sections 4 and 5 of the act, insofar as the definitions relate to sections 4 and 5) shall apply to filings and statements for calendar year 1989 and each calendar year thereafter.

(2) Section 1 (sections 4 and 5 of the act) shall apply to filings and statements for calendar year 1989 and each calendar year thereafter.

Amend Sec. 11, page 36, line 1, by striking out "11" and inserting

12

On the question,

Will the House agree to the amendments?

FILMING PERMISSION

The SPEAKER. The Chair has granted to John Sanks of WPVI-TV, who is to the left of the Speaker, permission to film on the floor of the House for the next 10 minutes.

CONSIDERATION OF HB 75 CONTINUED

AMENDMENTS WITHDRAWN

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. Mr. Speaker, I would withdraw this amendment. It deals with a problem that needs to be dealt with in this act, but I understand that other amendments have been drawn.

The SPEAKER. The Chair thanks the gentleman.

The amendment is being withdrawn.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. HECKLER offered the following amendment No. A0315:

Amend Sec. 1 (Sec. 2), page 7, line 4, by inserting after "elected"

and subdivisions and offices within that entity

On the question,

Will the House agree to the amendment?

The SPEAKER. The gentleman from Bucks, Mr. Heckler, is recognized on the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

This amendment deals with a narrow situation which we discovered in hearings on this subject in the Judiciary Committee last session.

Employees, for instance, of the Pennsylvania Department of Transportation who worked for one engineering district were found by a decision of the Ethics Commission to be able to, immediately upon retiring or leaving employment, represent clients in practice with other parts of the Pennsylvania Department of Transportation, including their neighboring engineering district. We sought to make particularly clear that when we are prohibiting for 1 year that revolving-door kind of

conduct, we are dealing not only with a particular subdivision of an agency or a local government but the entire unit, and my language simply makes it clear in the definition of "governmental body" that we are including subdivisions and offices within that entity.

I would urge the enactment of this amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—187

Acosta	Donatucci	Lee	Robinson
Adolph	Dorr	Leh	Roebuck
Allen	Durham	Lescovitz	Rudy
Angstadt	Evans	Levdansky	Ryan
Argall	Fairchild	Linton	Rybak
Barley	Farmer	Lloyd	Saloom
Battisto	Fleagle	Lucyk	Saurman
Belardi	Flick	McCall	Scheetz
Belfanti	Foster	McHale	Schuler
Billow	Fox	McNally	Scrimenti
Bishop	Freeman	McVerry	Semmel
Black	Freind	Maiale	Serafini
Blaum	Gannon	Maine	Smith, B.
Bortner	Geist	Markosek	Smith, S. H.
Bowley	George	Marsico	Snyder, D. W.
Boyes	Gigliotti	Mayernik	Snyder, G.
Brandt	Gladeck	Melio	Staback
Broujos	Godshall	Merry	Stairs
Bunt	Gruitza	Michlovic	Steighner
Burd	Gruppo	Micozzie	Stish
Burns	Hagarty	Miller	Strittmatter
Bush	Haluska	Moehlmann	Stuban
Caltagirone	Hayden	Morris	Tangretti
Cappabianca	Hayes	Mowery	Taylor, E. Z.
Carlson	Heckler	Mrkonic	Taylor, J.
Cawley	Herman	Murphy	Telek
Chadwick	Hershey	Nahill	Thomas
Civera	Hess	Nailor	Tigue
Clark, D. F.	Howlett	O'Brien	Trello
Clark, J. H.	Hughes	O'Donnell	Trich
Clymer	Itkin	Oliver	Van Horne
Cohen	Jackson	Perzel	Veon
Colafella	Jadlowiec	Petrarca	Vroon
Colaizzo	James	Petrone	Wambach
Cole	Jarolin	Phillips	Wass
Cornell	Johnson	Piccola	Weston
Corrigan	Josephs	Pievsky	Williams
Cowell	Kaiser	Pitts	Wilson
Coy	Kasunic	Pressmann	Wogan
DeLuca	Kenney	Preston	Wozniak
DeWeese	Kondrich	Raymond	Wright, D. R.
Daley	Kosinski	Reber	Wright, J. L.
Davies	Kukovich	Reinard	Wright, R. C.
Dempsey	LaGrotta	Richardson	Yandrisevits
Dietterick	Langtry	Rieger	
Dininni	Lashinger	Ritter	Manderino,
Distler	Laughlin	Robbins	Speaker
Dombrowski			

NAYS—0

NOT VOTING—6

Clark, B. D.	Harper	Pistella	Taylor, F.
Gallen	Hasay		

EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. DAVIES offered the following amendments No. A0292:

Amend Title, page 1, line 7, by inserting after "definitions;" further providing for restricted activities;

Amend Sec. 1 (Sec. 3), page 14, by inserting between lines 5 and 6

(j) After January 1, 1991:

(1) A member of the General Assembly may not receive any income, remuneration or gift having a value in excess of \$200 per year from a corporation, partnership, proprietorship or individual which conducts any business with the Commonwealth or any of its commissions, boards, authorities or agencies.

(2) A member of the General Assembly may not receive any income, remuneration or gift having a value in excess of \$200 per year from a corporation, partnership, proprietorship or individual which is registered under the act of September 30, 1961 (P.L.1778, No.712), known as the "Lobbying Registration and Regulation Act." This paragraph does not prohibit campaign contributions from a political action committee as defined in the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," or from an individual.

(3) A member of the General Assembly may receive dividends and interest from corporations or other types of business or from individuals which conduct business with the Commonwealth or its commissions, boards, authorities and agencies only if the member places all such holdings into a blind trust. Any and all additional holdings purchased in such entities after January 1, 1991, must be placed into a blind trust.

(4) A member of the General Assembly may not receive any income, remuneration or gift having a value in excess of \$200 per year from any institution in the Commonwealth which receives more than 25% of its annual income from Commonwealth funds.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies, on the amendment.

Mr. DAVIES. Thank you, Mr. Speaker.

The first provision of the amendment would place a restriction upon any remuneration from any corporation, partnership, or proprietorship or any individual that would conduct business with the Commonwealth or any of its entities. The second one would restrict it to any of those enterprises which would lobby either of the Houses of the General Assembly. The third one would say that it would be permissible for individuals to have holdings with corporations that have contracts and other business entities with the Commonwealth, but after January 1, 1991, those would have to be placed in a blind trust. The last provision is that any institution within the Commonwealth that would exceed 25 percent of its funding or its annual income from funds from the Commonwealth—of course, an individual would not be able to receive any remunerations, gifts, or income from that institution.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, I oppose this amendment. I think it is outrageous what we do to ourselves sometimes, and I would like you just to think for a minute; I would like you just to think for a minute what this amendment does.

If this amendment is adopted, there is an excellent chance that anyone who owns any stock will violate this provision of the Ethics Act. In other words, those of us—and I suspect that all of us at one time or another have ventured into the stock market. You might as well forget about it. If you buy five shares of AT&T, you have got to put it into a blind trust. I do not know where you are going to get anybody to run your blind trust consisting of five shares of AT&T, but if you do not get someone to run it, then you are going to be violative of this amendment. Why AT&T? Because AT&T rents telephones or sells telephone services to the Commonwealth of Pennsylvania.

If you want one share, if you own one share of IBM, then you have got to put that one share of IBM into a blind trust—I do not know where you get the trustee—because IBM sells us typewriters. The same thing is true with fax machines, with Xerox equipment, I guess with Chevrolets that the General State Authority buys in fleets for our cars or Fords for the State Police. Effectively, you really could not own a thing, and probably the worst part of it is, how many of us even know what companies do business with the State? I mean, big-board companies, probably every one of them in some fashion does business with the State. I think it is just crazy to suggest that we are so crooked that we cannot own some IBM stock in our own name without putting it in a blind trust.

Now, the law today makes more sense. The law today says, if you have 5 percent of a company—and none of us, with the possible exception of Sam Morris, owns 5 percent of IBM or General Motors. Oh, was that 1 percent? “The Sam and Matt Show” on public television Saturday.

The law today says, if you have an interest in 5 percent or more of a corporation that does business with the State, then you are caught under the Ethics Act, and that is right. That is the way it should be. That is what it was originally designed to do, so that if you or any member of your immediate family has a substantial interest in a corporation that is doing business with the Commonwealth, then you are precluded from doing—or whatever the law says. You have to disclose it or divest yourself. Well, that is what we are supposed to do, but really, I find this offensive and somewhat outrageous to suggest that this need be done to police us.

Now, number (4), “A member of the General Assembly may not receive any income, remuneration or gift having a value in excess of \$200 per year from any institution in the Commonwealth which receives more than 25% of its annual income from Commonwealth funds.” Now, I do not know just what this is designed to do, but if you are a lawyer and you represent a school district, you will have to give up representing that school district. If you go to a Penn State game, perhaps you cannot go anymore, if you go up to Penn State to

one of their football games. If you are an insurance man and you sell any insurance to anybody who has a 25-percent funding from the Commonwealth, you could not do it. All of these organizations at home - the so-called (c)(3) organizations - you would not be able to do any business whatsoever with any of them, because some of them are funded by the Commonwealth.

I think it is wrong. I think we are painting ourselves as thieves, is what we are doing with some of these amendments, and I do not believe that we are thieves, and I think that we should occasionally stand up and say, that is enough.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, this is one occasion where the minority leader and I would agree. For those members who are concerned about whether this amendment could be categorized as a strengthening amendment, I guess you could look at it that way. I would suggest to you that what this amendment would do with the various limits and restrictions it has in it is basically love this bill to death. I think if you are concerned about having a strong ethics bill, I think the way it is drafted now is adequate. Putting this amendment in, I think, will help kill the bill, not make it a better bill.

For that reason, and with the arguments that Representative Ryan made, I would ask for a “no” vote on the Davies amendment.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. I would just say, Mr. Speaker, that the gentleman, Mr. Ryan, I think, summed it all up as to why this amendment should not go in our bill, and I ask for a negative vote.

#### AMENDMENTS WITHDRAWN

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies, for the second time on the amendment.

Mr. DAVIES. Mr. Speaker, as was characterized to paint ourselves as thieves or some of the other remarks that were made, that may well be the acceptance of the minority leader or others may make the same inference. I do not quite look at it that way. I just do not know how serious people are about whether or not they are going to do the ethics thing and present the ethics thing as maybe a puristic approach, but in light of their concerns about it, I will withdraw the amendment, Mr. Speaker.

The SPEAKER. The gentleman indicates that the amendment will be withdrawn. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. VEON offered the following amendment No. A0266:

Amend Sec. 1 (Sec. 8), page 28, line 5, by inserting after “matte.”

The commission shall grant any request for a hearing. Said hearing shall be held in Harrisburg or, at the request of the subject, in either Philadelphia or Pittsburgh.

On the question,  
Will the House agree to the amendment?

The SPEAKER. On the first amendment, the Chair recognizes the gentleman from Beaver County, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, in my attempt to amend this section of the bill, on page 28, the section of the bill says that the commission shall issue a findings report, and it follows up by saying that the subject shall have the right to respond to said findings and to request an evidentiary hearing on said matter. Mr. Speaker, I would just like to follow that up by clarifying that the commission has no choice but to grant that request for a hearing, which I think would be eminently fair, and I also would follow that up by allowing for regional hearings—as is my understanding that other administrative agencies within State Government allow regional hearings—in Pittsburgh, Philadelphia, or Harrisburg.

Mr. Speaker, I would ask for an affirmative vote.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum, on the amendment.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I would just like to support the Veon amendment and ask the members to vote in the affirmative.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McNally, on the amendment.

Mr. McNALLY. I would also like to add my support to Mr. Veon's amendment. This makes a significant change in current law. As the law stands today, the Ethics Commission has within its discretion the right to refuse a person who is the subject of a complaint a hearing on that matter. I think it is important that we give a mandate, an absolute right to a person who requests a hearing, to grant that hearing, and as Mr. Blaum has indicated, I would urge the House to support this amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—190

Acosta	Dombrowski	Langtry	Robbins
Adolph	Donatucci	Lashingier	Robinson
Allen	Dorr	Laughlin	Roebuck
Angstadt	Durham	Lee	Rudy
Argall	Evans	Leh	Ryan
Barley	Fairchild	Lescovitz	Rybak
Battisto	Farmer	Levdansky	Saloom
Belardi	Fleagle	Linton	Saurman
Belfanti	Flick	Lloyd	Scheetz
Billow	Foster	Lucyk	Schuler
Bishop	Fox	McCall	Scrimenti
Black	Freeman	McHale	Semmel
Blaum	Freind	McNally	Serafini
Bortner	Gallen	McVerry	Smith, B.
Bowley	Gannon	Maiale	Smith, S. H.
Boyes	Geist	Maine	Snyder, D. W.
Brandt	George	Markosek	Snyder, G.
Broujos	Gigliotti	Marsico	Staback
Bunt	Gladeck	Mayernik	Stairs
Burd	Godshall	Melio	Steighner
Burns	Gruitza	Merry	Stish
Bush	Gruppo	Michlovic	Strittmatter

Caltagirone	Hagarty	Micozzie	Stuban
Cappabianca	Haluska	Miller	Tangretti
Carlson	Harper	Moehlmann	Taylor, E. Z.
Cawley	Hasay	Morris	Taylor, J.
Chadwick	Hayden	Mowery	Telek
Civera	Hayes	Mrkonic	Thomas
Clark, B. D.	Heckler	Murphy	Tigue
Clark, D. F.	Herman	Nahill	Trello
Clark, J. H.	Hershey	Nailor	Trich
Clymer	Hess	O'Brien	Van Horne
Cohen	Howlett	O'Donnell	Veon
Colafella	Hughes	Oliver	Vroon
Colaizzo	Itkin	Perzel	Wambach
Cole	Jackson	Petrarca	Wass
Cornell	Jadlowiec	Petrone	Weston
Corrigan	James	Phillips	Williams
Cowell	Jarolin	Piccola	Wilson
Coy	Johnson	Pievsky	Wogan
DeLuca	Josephs	Pitts	Wozniak
DeWeese	Kaiser	Pressmann	Wright, D. R.
Daley	Kasunic	Preston	Wright, J. L.
Davies	Kenney	Raymond	Wright, R. C.
Dempsey	Kondrich	Reber	Yandrisevits
Dieterick	Kosinski	Reinard	
Dininni	Kukovich	Rieger	Manderino, Speaker
Distler	LaGrotta	Ritter	

NAYS—0

NOT VOTING—3

Pistella	Richardson	Taylor, F.
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EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendment was agreed to.

WELCOME

The SPEAKER. The Chair acknowledges visitors in the House today - Roberta Rourke of the Meadville Redevelopment Authority and Robert Kurtz of the Titusville Redevelopment Authority - who are here as the guests of Representative Connie Maine from Crawford County. They are seated to the right of the podium.

CONSIDERATION OF HB 75 CONTINUED

On the question recurring,  
Will the House agree to the bill on third consideration as amended?

Mr. VEON offered the following amendment No. A0267:

Amend Sec. 2 (Sec. 10.1), page 32, line 30, by inserting after "subject."  
If the commission determines that a complainant has not violated the provisions of subsection (a), the commission shall notify the subject accordingly. The subject shall have the right to appeal the commission's determination and the commission shall schedule an appeal hearing. The subject shall show cause why the complainant violated the provisions of this section. If the commission grants the appeal, the commission shall immediately release the complainant's name and address to the subject. If the commission denies the appeal, it shall present evidence why the complainant's name and address shall not be released.



On the question,  
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Beaver County, Mr. Veon, on the amendment.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, this amendment attempts to add some language to the wrongful-use-of-act section. Mr. Speaker, this amendment would simply allow for a further appeal by the subject of the wrongful-use-of-act complaint. It is my understanding that the language as now drafted would not permit that direct appeal of that particular finding that there was no wrongful use of the act other than taking the commission to Commonwealth Court. I would just like to add this one further appeal step to give the subject one further attempt to clarify and have his shot that in fact there may have been a wrongful use of the act before incurring the expense of going to Commonwealth Court.

I would ask for an affirmative vote.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Heckler, on the amendment.

Mr. HECKLER. I would ask if I might interrogate the maker of the amendment, Mr. Speaker.

The SPEAKER. The gentleman indicates he will stand for interrogation. Mr. Heckler may proceed.

Mr. HECKLER. Thank you, Mr. Speaker.

Mr. Speaker, is it the intent of this amendment to provide someone who was accused of violating the act who has been found by the commission not to have violated the act, that the commission is not going forward with an investigation, to give them some right of appeal from that decision in their favor?

Mr. VEON. If I understand the question correctly, Mr. Speaker, the intent is to give the subject who has asked the commission to find for a wrongful use of the act by a complainant an opportunity to appeal the commission's decision that there was in fact no wrongful use of the act.

Mr. HECKLER. And if I may, Mr. Speaker, to whom would that appeal be taken?

Mr. VEON. This appeal would be taken to the commission, and I understand the question being, is that not repetitive in that the commission just granted or just made that decision in the first place? I think if you look at the language in the middle of the paragraph, Mr. Speaker, my intent is to give the subject one further opportunity to better make his case in front of the commission that in fact there was a wrongful use of the act. That is the intent; no hidden motives, just one further opportunity back to the commission to further make their case that there was a wrongful use of the act before having to incur the expense of going to Commonwealth Court with an appeal.

Mr. HECKLER. If I could speak on the amendment.

The SPEAKER. The gentleman, Mr. Heckler, has indicated he has completed his interrogation and is in order to debate the amendment.

Mr. HECKLER. Thank you, Mr. Speaker.

Mr. Speaker, as I read the language of this amendment and hear the intent of the maker, it appears, at least to me—and

every member is going to have to read this amendment for themselves—that the maker of the amendment may misconstrue what this process is all about. The wrongful use of act intends to create an action in the court of common pleas. It is not an issue that would be decided before the Ethics Commission. It is a matter which enables you essentially to sue someone who has wrongfully accused you in the court of common pleas. That being the case, I would suggest that, at best, this language is going to muddy the waters and that it simply misconstrues the process which is going to take place as set up in the statute.

I would oppose the adoption of this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum, on the amendment.

Mr. BLAUM. Thank you, Mr. Speaker.

I, too, would rise to oppose the amendment, because I think it is unclear as to what it is going to do. They are able to appeal the commission's determination, but it does not say how long. The whole purpose of the wrongful use of act is that you can turn around after being accused falsely and sue the person who has besmirched you. That is the purpose of the wrongful use of act, and if somebody has used the act in a wrong manner, you have the recourse, as Mr. Heckler said, in the court of common pleas, and that is where your appeal is to a judge and a jury in a civil case.

So I ask that the amendment be defeated.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McNally.

Mr. McNALLY. Thank you, Mr. Speaker.

Mr. Veon's amendment is not only a good amendment but I believe it is absolutely essential that it be passed in order to satisfy the basic requirements of fairness for people who are the subject of a complaint.

Under wrongful use of act, one of the requirements that a person suing for wrongful use of the act must prove is that the commission found the complaint to be frivolous or without probable cause. Now, the procedure that this act sets up for a complaint is that after a complaint has been filed, the commission, through its executive director, begins a preliminary inquiry. At the end of the preliminary inquiry, the commission decides whether to proceed with an investigation or to dismiss the complaint. At that point, if they decide to dismiss the complaint, they can first determine that the complaint was frivolous or not determine that the complaint was frivolous. What Mr. Veon's amendment does is that if the complaint is dismissed, if there is no further investigation, but the commission fails to determine that the complaint was frivolous or that there was a lack of probable cause, the person who is the subject of the complaint has the opportunity to proceed further with the commission and ask them to reconsider that determination of whether the complaint was frivolous or there was a lack of probable cause. That is essential.

Mr. Veon's amendment, I repeat, is essential, and the reason is that a person who is the subject of a complaint is not even notified that the complaint has been filed until after this

preliminary inquiry stage has been completed. In other words, without Mr. Veon's amendment, what could happen is a complaint could be filed; a preliminary inquiry could entail; the commission could dismiss the complaint without notifying the subject of the complaint that a complaint has been filed; and they may not make a finding that the complaint was frivolous. Therefore, the subject of the complaint is out of court. He cannot sue for wrongful use of the act, in light of the fact that he never even had an opportunity to make a case in front of the commission.

This bill, as it is written today, would violate fundamental principles of procedural due process. All Mr. Veon's amendment does is let the subject of the complaint have his day in court, and that is what he is entitled to.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich, on the amendment.

Mr. KUKOVICH. Mr. Speaker, within the bill there is adequate due process. What happens if you accept this amendment, you cause a number of problems. I think the maker of the amendment's intentions are well taken, but there are a few problems.

Number one, there is no timeframe within this amendment. It is unclear when there would be a deadline to schedule an appeal hearing. It is unclear how soon a subject would have to show cause. It could create a tremendous backlog.

Secondly, it is going to create additional fiscal and administrative burdens by setting up another bureaucratic process. I think if you would vote for this amendment, you had better be prepared to come back and vote for more funding for the Ethics Commission, because they will totally bog down if this is adopted, and there are a few other amendments that are yet to be seen that are going to create more layers of bureaucracy.

I think we better be very careful whenever we consider amendments like this no matter how well intentioned, and I would ask for a "no" vote.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McNally, on the amendment.

Mr. McNALLY. Thank you, Mr. Speaker.

One of the last comments made that there are adequate procedural safeguards and due process safeguards in this bill as it is drafted is, I think, one of the most mistaken statements that can be made about this bill. In fact, there are a number of areas throughout this bill in which fundamental, constitutional rights are breached or are ignored. This amendment seeks to address one of those deficiencies in the bill. Throughout this debate on this bill, other amendments will come forward to discuss the deficiencies of the bill and in particular the problems that it presents in violating people's constitutional rights.

I repeat that Mr. Veon's amendment gives the subject of a complaint his right, his day in court. It gives him the opportunity to dispute with the commission if it decides that a complaint was not frivolous.

So once again I urge the support of Mr. Veon's amendment. As I said, I consider his amendment not only important but essential to maintain the constitutionality of this part of the bill. Thank you.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Montgomery, Mr. Lashinger.

Mr. LASHINGER. Mr. Speaker, would the gentleman, Mr. Blaum, consent to a brief interrogation on this point?

The SPEAKER. The gentleman, Mr. Blaum, indicates he will consent to interrogation. Mr. Lashinger may proceed.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, I understand the concerns of the gentleman, Mr. Veon, and I am wondering if subsection (c) on page 32, that talks about the commission determining that a complainant has violated the provisions set forth in section 10.1(a), only refers to when the commission has to release the name of the individual filing the complaint and does not create a new threshold which, I think, Mr. McNally is suggesting that you have to cross in order to create the cause of action for wrongful use of the act.

Mr. BLAUM. That is my understanding; yes.

Mr. LASHINGER. If that is the case, and I understand—Thank you, Mr. Speaker.

Permission to make a few brief comments.

The SPEAKER. The gentleman is in order.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, with Mr. Blaum's comments, I think that clears up that concern that subsection (c) now only relates to when the subject of a complaint wanted to get the name disclosed by the commission, that the commission would first have to make the determination that it was frivolous, but that only related to the release of the individual's name who filed the complaint; it does not create a new threshold that is necessary to cross to create a cause of action that we are now calling wrongful use of the Ethics Act.

So with Mr. Blaum's statement that we do not now need to go back to the commission to create the wrongful use of the act, I do not believe we need the amendment. I would suggest that Mr. Blaum is correct in that assessment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Washington, Mr. Lescovitz.

Mr. LESCOVITZ. Thank you, Mr. Speaker.

I just rise in support of this amendment. I want to disagree a little bit with Mr. Kukovich in his statement earlier about the court systems and this would bog down the proceedings. What more of a backlog do we have than in the court systems today? If we can come up with a remedy through the system as it is now, we are better off handling it there than going into the court systems and waiting 2, 3, or 5 years to resolve this in the courts.

I believe this is a good amendment, and I would appreciate everybody's support on it.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Trello.

Mr. TRELLO. Mr. Speaker, I rise to support the amendment. First of all, as a gentleman who has been in politics most of his adult life, I think all of us can say we have had a few political enemies. And if some of my opponents would happen to go to the Ethics Commission with a wrongful use of this act by making innuendos about my character, then I think we should have a right to go back to that commission.

Then Mr. Kukovich refers to funding. Well, that does not make any difference to me. If we have to spend another few dollars to make sure that everybody gets their due process of the law, then it is okay with me.

He also made a statement about the statute of limitations. I think that has already been established in this act about the statute of limitations, and I am sure it would apply to this.

I believe that everybody should support the amendment. It is a good amendment. It gives the gentleman who cannot afford to have an attorney with him every day a chance in this Ethics Act. Thank you for the support.

**MEMBER'S PRESENCE RECORDED**

The SPEAKER. The gentleman from Allegheny, Mr. Pistella, is on the floor of the House and is to be added to the master roll call.

**CONSIDERATION OF HB 75 CONTINUED**

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—148**

Adolph	Donatucci	Lescovitz	Roebuck
Angstadt	Dorr	Levdansky	Rudy
Battisto	Durham	Linton	Ryan
Belardi	Evans	Lucyk	Saloom
Belfanti	Fairchild	McCall	Saurman
Billow	Farmer	McNally	Semmel
Bishop	Fleagle	McVerry	Serafini
Black	Flick	Maiale	Smith, B.
Bowley	Foster	Markosek	Smith, S. H.
Boyes	Fox	Mayermik	Snyder, D. W.
Brandt	Freeman	Melio	Staback
Broujos	Freind	Merry	Stairs
Bunt	Gallen	Michlovic	Steighner
Burd	Geist	Micozzie	Stish
Bush	Gigliotti	Miller	Strittmatter
Caltagirone	Gladeck	Moehlmann	Stuban
Cappabianca	Godshall	Morris	Tangretti
Carlson	Gruitza	Mowery	Taylor, E. Z.
Cawley	Gruppo	Mrkonic	Taylor, J.
Civera	Haluska	Murphy	Telek
Clark, B. D.	Harper	Nahill	Thomas
Clark, D. F.	Hasay	Nailor	Tigue
Clark, J. H.	Hayes	O'Brien	Trello
Cohen	Herman	Oliver	Trich
Colaella	Hess	Perzel	Van Horne
Colaizzo	Jackson	Petrarca	Veon
Cole	Jadlowiec	Petrone	Wambach
Cornell	James	Phillips	Wass
Corrigan	Johnson	Pievsky	Weston
Cowell	Kaiser	Pistella	Williams
Coy	Kasunic	Pitts	Wogan
DeLuca	Kenney	Pressmann	Wozniak
DeWeese	Kondrich	Raymond	Wright, D. R.
Daley	Kosinski	Reber	Wright, J. L.
Davies	LaGrotta	Rieger	
Dempsey	Langtry	Robbins	
Dietterick	Laughlin	Robinson	
Distler	Leh		

**NAYS—39**

Allen	Gannon	Lashingier	Ritter
Argall	George	Lee	Rybak
Barley	Hagarty	Lloyd	Scheetz
Blaum	Hayden	McHale	Schuler
Bortner	Heckler	Maine	Scrimenti
Burns	Hershey	Marsico	Snyder, G.
Chadwick	Itkin	O'Donnell	Vroon
Clymer	Jarolin	Piccola	Wilson
Dininni	Josephs	Preston	Yandrisevits
Dombrowski	Kukovich	Reinard	

**NOT VOTING—6**

Acosta	Hughes	Taylor, F.	Wright, R. C.
Howlett	Richardson		

**EXCUSED—9**

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on third consideration as amended?

Mr. VEON offered the following amendment No. A0309:

Amend Sec. 1 (Sec. 2), page 7, line 9, by inserting after "services."

The term does not include tokens presented or provided which are of de minimis economic impact.

On the question,  
Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I would like to take this opportunity to thank the gentleman, Mr. McNally, for his defense of my position in a much more articulate fashion than I could have ever done. Thank you.

Mr. Speaker, on this amendment I attempt to clarify the definition of "honorarium" by making sure that it does not include, as the language that is on the amendment, "...tokens presented or provided which are of de minimis economic impact." I use that phrase "de minimis economic impact" because that is defined in the bill and used in some other places, and I am attempting to make sure that the letter openers, the paperweights, and those mementos that are provided at the fire department speeches, et cetera, would clearly not be considered honorariums for the purposes of this bill.

I would ask for an affirmative vote.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—191**

Acosta	Donatucci	Lashingier	Robbins
Adolph	Dorr	Laughlin	Robinson
Allen	Durham	Lee	Roebuck
Angstadt	Evans	Leh	Rudy
Argall	Fairchild	Lescovitz	Ryan
Barley	Farmer	Levdansky	Rybak

Battisto	Fleagle	Linton	Saloom
Belardi	Flick	Lloyd	Saurman
Belfanti	Foster	Lucyk	Scheetz
Billow	Fox	McCall	Schuler
Bishop	Freeman	McHale	Scrimenti
Black	Freind	McNally	Semmel
Blaum	Gallen	McVerry	Serafini
Bortner	Gannon	Maiale	Smith, B.
Bowley	Geist	Maine	Smith, S. H.
Boyes	George	Markosek	Snyder, D. W.
Brandt	Gigliotti	Marsico	Snyder, G.
Broujos	Gladeck	Mayernik	Staback
Bunt	Godshall	Melio	Stairs
Burd	Gruitza	Merry	Steighner
Burns	Gruppo	Michlovic	Stish
Bush	Hagarty	Micozzie	Strittmatter
Caltagirone	Haluska	Miller	Stuban
Cappabianca	Harper	Moehlmann	Tangretti
Carlson	Hasay	Morris	Taylor, E. Z.
Cawley	Hayden	Mowery	Taylor, F.
Chadwick	Hayes	Mrkonic	Taylor, J.
Civera	Heckler	Murphy	Telek
Clark, B. D.	Herman	Nahill	Thomas
Clark, D. F.	Hershey	Nailor	Tigue
Clark, J. H.	Hess	O'Brien	Trello
Clymer	Howlett	O'Donnell	Trich
Cohen	Hughes	Oliver	Van Horne
Colaella	Itkin	Perzel	Veon
Colaizzo	Jackson	Petrarca	Vroon
Cole	Jadlowiec	Petrone	Wambach
Cornell	James	Phillips	Wass
Corrigan	Jarolin	Piccola	Weston
Cowell	Johnson	Pievsky	Williams
Coy	Josephs	Pistella	Wilson
DeLuca	Kaiser	Pitts	Wogan
DeWeese	Kasunic	Pressmann	Wozniak
Daley	Kenney	Preston	Wright, D. R.
Davies	Kondrich	Raymond	Wright, J. L.
Dempsey	Kosinski	Reber	Yandrisevits
Dietterick	Kukovich	Reinard	
Dininni	LaGrotta	Rieger	Manderino,
Distler	Langtry	Ritter	Speaker
Dombrowski			

NAYS—0

NOT VOTING—2

Richardson Wright, R. C.

EXCUSED—9

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. MAYERNIK offered the following amendment No. A0318:

Amend Sec. 1 (Sec. 9), page 31, by inserting between lines 15 and 16

(g) A public official of a political subdivision who acts in good faith reliance on a written, nonconfidential opinion of the solicitor of the political subdivision or upon an opinion of the solicitor of the political subdivision, publicly stated at an open meeting of the political subdivision and recorded in the official minutes of the meeting shall not be subject to the penalties provided for in subsections (a) and (b), nor for the treble damages provided for in subsection (c).

On the question,  
Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman from Allegheny, Mr. Mayernik.

Mr. MAYERNIK. Thank you, Mr. Speaker.

Amendment A318 exempts local officials from penalties if, upon finding of a violation of the Ethics Act, it was determined that the official had acted on prior advice of the solicitor of the political subdivision.

Many of us in this room have been local elected officials before coming to the chamber and we know that anytime there is a question we ask our solicitor, what is your opinion? What my amendment would do is, if you as a local elected official would act in good-faith reliance on the opinion of the solicitor, being a written opinion or an oral opinion, given on a nonconfidential matter in the minutes of a public meeting and you follow the solicitor's advice, this amendment would state that you would not be subject to penalties under this section of the Ethics Act.

It is a commonsense amendment. It would keep people in public office in the local municipalities.

I ask for an affirmative vote.

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Will the gentleman stand for a brief period of interrogation?

The SPEAKER. The gentleman indicates that he will stand for interrogation.

Mr. RYAN. This amendment differs, does it not, from one of the earlier amendments in that here the opinion must be given in a public forum as opposed to a private opinion?

Mr. MAYERNIK. That is correct, Mr. Speaker. It would have to be a nonconfidential opinion. It would either have to be written or in a public meeting recorded in the public minutes of the meeting.

Mr. RYAN. Thank you, Mr. Speaker.

Mr. Speaker, I do not know about the rest of you, but I am going to vote for the amendment.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum, on the amendment.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment, and I want to direct the attention of the members to page 30 of the bill, line 15.

Already in HB 75, in HB 75 from its original drafting, has been the language that treble damages, meaning that if you are found to have gone astray of the Ethics Act, you can make restitution, give back whatever financial gain had been got, or if it is a flagrant violation, you would have to give back the financial gain times three, treble damages.

Already in HB 75 we recognize the arguments that the gentleman, Mr. Mayernik, has made, and that is, if you rely on the advice, good-faith reliance on the legal advice of your solicitor, you cannot be assessed the treble damages. Under the Mayernik amendment, what it says is that a criminal act can be committed, a criminal act could be committed which goes way beyond, way beyond just the treble damages

penalty, but a criminal act could be committed, and if the solicitor was in any way in collusion on that act, that nothing could happen to them.

This amendment was removed by the Appropriations Committee simply because of that reason, that already HB 75, I believe, takes care of the situations that we are interested in, and that is the good-faith reliance on the advice of a solicitor that you need not be assessed, you cannot be assessed the treble damages. But that does not mean that we want to allow an unscrupulous board member somewhere who gets together with his solicitor, we do not want to allow them to commit a criminal act and have a blanket shield of protection that we adopted because we adopted this amendment today.

So I think the concerns that many of us have who served in local government—and I am a former city councilman—are already taken care of in HB 75. We need not go beyond that and adopt this amendment which gives a total shield of protection, even if a criminal act was committed, simply because a solicitor said it was okay. I do not believe that is what we want to do. I believe the protection is already in HB 75, and I think it is very, very important that this amendment be defeated. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, again I am listening to the gentleman, Mr. Blaum, and I am thinking to myself, he starts off with everybody in public life being potentially guilty of wrongdoing, and that is wrong. Here we are talking about a situation where a man—and I am going to use an example that was asked of you yesterday—a man is elected mayor of a borough and a woman who is the secretary in the borough mayor's office is still the secretary there and he marries her, and the new mayor asks his solicitor, do I have to fire her because of the Ethics Act? Yesterday you said, I do not think you do because there is no official action needed. And let us assume for a minute, Mr. Speaker, that the city solicitor or the borough solicitor says, yes, you are right; you do not have to fire this woman whom you have married who is your secretary because no official action is taken. Let us suppose, though, that 2 months later a political opponent of that mayor writes to the Ethics Commission, the Ethics Commission writes back and says, no, that is official action because you sign the payroll every month and you should have taken her off the payroll. That person is guilty of a crime under the Ethics Act despite the fact that he in good faith relied on his solicitor.

I think the amendment offered by Mr. Mayernik— And it is for political subdivisions. This one does not even apply to us. This applies to local government, this amendment. This applies to the boroughs and the townships. It does not apply to the legislature. So it is not something that even the press can say that we are doing on a self-dealing basis. This is your local government and your local government official who relies on the opinion of a solicitor at an open meeting with the opinion filed. And I think it is wrong for us to say that lawyers and public officials are going to get together. If they do that, that is a separate crime and they will be prosecuted for it and the guy will get disbarred.

The SPEAKER. The Chair recognizes the lady from Lehigh County, Ms. Ritter.

Ms. RITTER. Thank you, Mr. Speaker.

The gentleman, Mr. Ryan, set forth very accurately the type of situation that is more likely to occur than the heinous crimes that the gentleman, Mr. Blaum, would want you to think would happen.

I want to deal with the question of collusion. I was a member of the city council in Allentown, and for collusion to occur between a solicitor and a single member of city council would require the tacit approval of the other members of council, the press, who covers the meetings, and the public, who reads about it in the newspaper. You cannot just have one member of the local government body sit down with a solicitor and say, well, let us do this so we can get away with it, not with the requirements that are in the Mayernik amendment now requiring that it be a public, nonconfidential opinion or requiring that the action take place at a public meeting. So you cannot talk about collusion between one member and the solicitor. You really are requiring that everyone in that city or borough say, okay, we are not going to worry about this, because it will just take one or two people to make the complaint to the press and that will be the end of these kinds of actions.

So I think, again, we have to allow our local government officials to be able to rely on the advice of their solicitors. We cannot require that they get an opinion from the solicitor and then have to get an opinion from the Ethics Commission. It is an undue burden that we are putting on our local government officials. They have the right to be able to rely on the legal advice. "Good faith reliance" I think also takes care of the problem of collusion, but they have to be able to in good faith rely on the advice of the solicitor for the body on which they serve.

I would urge a vote in the affirmative on the Mayernik amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Mr. McNally.

Mr. McNALLY. Thank you, Mr. Speaker.

The opponents of this amendment have referred to it on occasion as the solicitor's collusion amendment. I think that term is unfair, it is unjustified, and it is in fact cynical.

What this amendment would provide is that a person who relies in good faith upon the advice of counsel has a defense in a criminal prosecution. What does good faith mean? It means that your belief and your reliance upon that advice was reasonable; it was prudent. It is what any normal, typical person would have done. This amendment would not make a person immune from prosecution in a criminal prosecution under this act; it would simply allow them a defense. It would allow that defendant accused of a breach of the Ethics Act to go to the jury and say, look, I asked for advice; I was sincere; I was genuine; I wanted some advice about whether my conduct would breach the Ethics Act and that solicitor gave me what I believed was sound advice. If that is the circumstance in which a person received the advice, should they be prosecuted for a

felony? Should they be convicted for a prison term of more than a year and a \$1,000 fine? I do not think so. I think that that person, that public official or employee, ought to have the opportunity to assert that defense, to go to the jury, to prove their case, and that is what Mr. Mayernik's amendment does.

I would ask that the people who oppose this amendment would simply be reasonable and fair about this Mayernik amendment, allow our public officials and employees, if they are prosecuted, if they are subject to a criminal prosecution under this bill, allow them to go to a jury and prove their case. Thank you.

The SPEAKER. The Chair recognizes the gentleman from York County, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

If the members of the House would indulge me for just a couple of minutes, I will not have to deal in hypotheticals in this matter. I will give you a precise example of what can happen.

Dallastown Borough in my district sought to abolish its borough police force several years back. They asked their solicitor what the proper steps were and would they need an ordinance, and they were advised by their solicitor in checking the records, no, your police force was never established way back when by ordinance; therefore, you do not need an ordinance. They took a vote in a public meeting after discussion to abolish the police force.

What is the result today? They are in Federal Court. They are being sued and the individual council members are being sued, and the judge has ruled, because they acted not by ordinance in this matter, that they have lost their individual immunity. In other words, those members of borough council can conceivably lose their homes because of the erroneous opinion of a solicitor. And it tears me apart that I cannot do anything retroactively about that, but I can darn sure stand on the floor of this House and urge you to not repeat a mistake of that type.

I strongly support the Mayernik amendment and urge every member to vote for it.

The SPEAKER. The Chair recognizes the gentleman from Franklin County, Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

Mr. Speaker, the point that the gentleman, Mr. Ryan, made earlier I think is well taken. This amendment does not directly affect the members of the legislature; it affects local government officials.

For those of us who represent more rural parts of this State, I submit to you that the solicitor who is employed by that board of supervisors or that school board is the law to them. What that solicitor says in his professional opinion as a solicitor is all that local township board of supervisors or local school board has to go by to be the law. They cannot rely on high-paid Philadelphia lawyers or other lawyers from other parts of the State. They must rely simply on the advice of small-town lawyers, the advice of lawyers who might not always have the benefit of the whole body of law that we

have. All they can do is believe what they are told, believe what is represented to them to be the law on any particular case, and the law on a particular case is what that individual solicitor says to them. He may be right or he may be wrong, but those local government officials must depend on him to be right.

Mr. Speaker, if we interject our feelings here that the solicitor, regardless of what opinion he gives that local government, is right or wrong, then we may as well not have solicitors. I cannot believe that the members of this legislature who also happen to serve under every ethical circumstance as an attorney, as a solicitor in many respects earning extra income to tide them over from week to week as a solicitor, I cannot believe that they would not want solicitors to have the power to render legal opinions about matters and hope that they do that in the form and the manner which may be as close to being law and real law as possible.

What I am saying to you, Mr. Speaker, and to the members of the House is that local government officials must listen to someone. That someone on every given issue has to be the solicitor that they employ. If they cannot give a legal opinion which in good faith, as was stated earlier, is listened to and responded to and believed by that local board of supervisors, that local school board, that local borough council, then whom can they believe?

Certainly a person admitted to practice law before the bar of the Supreme Court of Pennsylvania - a solicitor - would try to give the best opinions possible, and I think this amendment serves to certify to that local government official, who many times is acting without much pay, sometimes without any pay at all - local borough councilmen and local township supervisors - that the one person they pay and give a fee to to tell them what the law is, that when they tell them what the law is, they ought to be able to believe them. This amendment does that, Mr. Speaker, and I wholeheartedly support it. Thank you.

The SPEAKER. The Chair recognizes the majority leader.

Mr. O'DONNELL. Thank you, Mr. Speaker.

For just a brief minute I felt great about the debate here this morning, because I heard lawyers being regarded in a way that I had never heard before, and it personally made me feel terrific that we were about to provide a full criminal defense merely on the word of our attorneys. I thought how the profession must have risen in the eyes of this legislature remarkably; in fact, since yesterday.

I was a little disheartened, however, to see that this new confidence only applies to small-town lawyers. Apparently the big Philadelphia lawyers are still evil, but our small-town lawyer. I think this is about to become another one of those mythical creatures; you know, like the little guy that we always vote for. We are now about to have the small-town lawyer, this fellow who, according to the debate this morning, is not somebody acquainted with the whole body of law, and so he has to be forgiven for that, but his innate honesty— I guess that comes from living in a small town. It has got to be. This is America. But that innate honesty somehow enables

him to throw a shield around his employers in such a way that they are utterly immune from criminal prosecution. Well, I think that is probably the wrong thing to do, and I think we ought to vote against this amendment, and the reason why does not depend upon the evildoing of lawyers, et cetera.

I think it is an almost impossible situation for our local government people to employ a lawyer, ask him for an opinion that is going to shield that employer from all criminal prosecution under the Ethics Act, and expect that lawyer, innately honest though he is, to withstand that inherent pressure of giving his client a favorable opinion. I think that is impossible.

The other thing to keep in mind is that I believe in any criminal prosecution, even under the Ethics Act, for any of the criminal activity—we are not talking about failing to file a form here—when you are talking about criminal behavior, you have to have the intent, and if a local government official is truly acting in good faith and has no intent to break the law—and I realize those are terms of art—you really cannot be successfully prosecuted without that intent.

So on those grounds, I would urge the defeat of the amendment.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I would respectfully disagree with the majority leader, who has asked us to vote against this amendment. I would urge that we vote in favor of the Mayernik amendment.

A previous speaker, also in opposition to it, suggested that this issue was taken care of by other language in the bill that provides that treble damages cannot be applied. I would suggest to you that the local official - a school official or a local council member - who in good faith does follow the advice of their solicitor and then in turn is successfully prosecuted, and then in turn is sent to jail for a year or two and fined \$10,000, is going to find little solace in the fact that we protected them from the treble-damage provision of the law.

The language that Representative Mayernik has proposed in this particular amendment does not allow for a casual opinion that some other drafts of amendments did. It provides for a formal opinion to be provided by the solicitor to the member of the subdivision, a political subdivision, who seeks that opinion. It will be on the public record. As Representative Ritter and others have suggested, it in fact will be subject to a lot of other scrutiny. It is not just going to be a deal or an agreement between the member and the solicitor. I think that this is appropriate.

I would suggest one other twist in terms of an interpretation also. As I read the language of the Mayernik amendment, it does not shield one from prosecution. It does not shield one from conviction. The language says that the penalties will not be applied - the penalty of treble damages; the penalty of going to prison; the penalty of the fine. As I read it, it does not necessarily say you are going to be immune from prosecution and conviction if in fact you have been found guilty of violating the pertinent sections of the law.

I think that Representative Mayernik proposes a very reasonable amendment. It is responsive to some very real problems that have been identified during the life of this law and the life of local government in the State. I would urge that we approve the amendment.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I suspect too much has probably been said about this amendment already, and I intend to be very brief. I do want to make a couple of comments on some things that I think have been stated that are just plain wrong and somewhat misleading perhaps to some members.

Mr. Blaum, I believe, was correct in his initial statement, if we can remember back that far, when he stated that the bill adequately addresses this problem already. He points out that there is already language which protects a public official from the treble-damage provision. Then the question becomes, what about a criminal violation? Well, I am one small-town lawyer that has practiced some criminal law as a district attorney and as a defense attorney, and I may not know everything, but I know that to commit a criminal offense, you have got to have criminal intent. As the majority leader points out, if you rely in good faith—in good faith—on the advice of your solicitor, you do not have the required mens rea or criminal intent to be convicted of a crime. That is a defense. Not having criminal intent is always a defense.

So I think that there are adequate safeguards already built into the bill. I am not cynical. I do not believe there is going to be a lot of collusion about this. I do think it creates a potential loophole, and it adds an amendment that, at very best, is going to be ambiguous and is not necessary. Thank you.

Excuse me, Mr. Speaker; one last point. I do want to address the point Mr. Foster made. I understand his concern, but nobody should be confused. This does not create any kind of civil immunity to any public official. It just does not address that problem.

The SPEAKER. The Chair recognizes the gentleman from Luzerne County, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Just to respond to the gentleman, Mr. Ryan. I do not believe that all public officials are out to be devious; just the opposite is true, but I understand that it is easy for him to say that. What we are about today, 99.99999 percent of all public officials are not going to go anywhere near this amendment, but as the gentleman, Mr. Bortner, says, it creates a loophole for the remainder.

I ask that the amendment be defeated. I think it is important. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

I rise in support of the Mayernik amendment. I think it is indeed unfortunate that although Mr. Blaum contests to the contrary, I believe that the opposition to this amendment comes from the perception that people who are engaged in



their responsibility as public officials are looking for some loophole in order to feather their own nest.

I believe that in a situation such as this, public officials in small towns and in big towns, because political subdivision does not happen to have a population definition to it in this amendment, and therefore, it would apply to first-class cities and second-class cities and all of those all the way down to the boroughs and the second-class townships in the State. I believe that if you have an individual who has been elected and goes into public office with the purpose of serving the members of their community—and those people come from all walks of life—and they hire a solicitor—and the purpose of hiring a solicitor is to advise them with regard to their legal responsibilities—they have a right to call upon that solicitor; and when in fact they do and they rely upon that advice, either written or given in a public forum where it becomes a part of the minutes, they should be able to rely upon that, and if it is in good faith, they should be shielded from having the potential of being fined \$10,000 or going to jail. It is very little solace to say that they are shielded from treble damages, which may amount to nothing in the way of dollars, but be placed in jail and/or fined up to \$10,000.

The key words, I believe, in this amendment are “good faith reliance.” Criminal activity requires intent. It requires a mens rea. It requires in this instance an actual collusion between the solicitor and the member of council or the township supervisor to in fact engage in criminal activity. I submit to you that if it can be established that that type of activity took place, there is no good-faith reliance. You cannot, in good faith, rely on an intent to commit a criminal act. If you are intending to commit a criminal act, all the good faith in the world will not shield you or protect you from the provisions of this act or Title 18, the Criminal Code, because there are many other statutes in place that will deal with public official criminal intent and actions to evade or to avoid criminal prosecution.

I submit to you that this is an amendment that warrants your favorable consideration. Thank you.

The SPEAKER. On the question, the Chair recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I think that Mr. Blaum and some of the other speakers that have said that this legislation adequately protects public officials in other provisions of the act are wrong.

We who came from local government here on the floor of the House know, and the speaker, Mr. O'Donnell, said, that the solicitor cannot shield his clients or elected officials from prosecution, but in local government, you know, very often you cannot go for a second opinion at a particular time. You have to go with that person's advice that is the expert at that time. That is why it is so imperative that we do not let anything in the Ethics Act that can be misinterpreted. This needs to be spelled out, because we all know as elected officials, be it here or at the local unit of government, we are always in the lion's cage. We always are in that cage, and sooner or later that lion is going to bite you. We have a myriad of solicitors

and attorneys that we can talk to, but in local government, they depend upon one person. Be it in the small town or be it in Wilkesburg or Philadelphia, they have one solicitor for that advice. That is why it is imperative that the Mayernik amendment gets approved, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from York County, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

In response to the gentleman, Mr. Bortner, I would like to point out that his point that he made in relation to the case I recited on the floor was a legal point. I did not present a legal brief to the courts addressing this issue, and I am well aware that this concerns the Ethics Code and my case involves the Borough Code. I do not suggest in geometric terms that they are congruent, but they are similar, and the same thing happened because an interpretation was made of ambiguous language. Therefore, I do not propose that we today be ambiguous in our language; I suggest we spell it out so that some other local official is not caught in this same trap and spend 2 or 3 years wondering whether they are going to lose their home or something.

I strongly support the Mayernik amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

I just want to say that I heard the majority leader say that a solicitor would not give the wrong information to the members of local government. If that is the case, I would suggest we do away with solicitors. As a former member of local government, I went to that solicitor to get information that was unbiased and truthful, not to protect myself.

Yesterday we spent hours in here while attorneys tore apart each other's interpretations of language, and that solicitor is one attorney who will give an opinion at that point. If that opinion happens to be wrong, then this is going to go to the Ethics Commission that somehow is endowed with great wisdom and will be able to interpret the word exactly as it should be. Yet every attorney who appears before a judge has a different approach to the language that is there before them.

As a local official, somewhere there has to be a place where one can go and feel secure in the action that they take. The Mayernik amendment guarantees that, and I certainly would support this and urge that others do.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Mayernik, the sponsor of the amendment, for the second time.

Mr. MAYERNIK. Thank you, Mr. Speaker.

Just two brief points, if I may.

As we listened to the gentlemen that have spoken in opposition to this amendment, they would lead us to believe that the solicitor is shielded from criminal prosecution. The point I would like to make is that if a solicitor and an elected official collude, they are not—they are not—acting in good-faith reliance, so they would not be excluded. They could be prosecuted.



The other point I would like to make is that they are still subject to the criminal penalties, and there is nothing in the Mayernik amendment that shields the solicitor or protects the solicitor from criminal prosecution. So it would not be in the best interests of the solicitor to collude with an elected official knowing that he is hanging out there and can be prosecuted.

So I would just like to address some of the concerns of the people that spoke in opposition. I do not want to belabor the matter anymore. I would ask for an affirmative vote.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—155

- |              |            |           |                       |
|--------------|------------|-----------|-----------------------|
| Adolph       | Distler    | Lee       | Ryan                  |
| Allen        | Dombrowski | Leh       | Saloom                |
| Angstadt     | Dorr       | Lescovitz | Saurman               |
| Argall       | Durham     | Lucyk     | Scheetz               |
| Barley       | Fairchild  | McCall    | Schuler               |
| Battisto     | Farmer     | McNally   | Semmel                |
| Belardi      | Fleagle    | McVerry   | Serafini              |
| Belfanti     | Flick      | Maiale    | Smith, B.             |
| Billow       | Foster     | Maine     | Smith, S. H.          |
| Black        | Fox        | Markosek  | Snyder, D. W.         |
| Boyes        | Freind     | Marsico   | Snyder, G.            |
| Brandt       | Gallen     | Mayernik  | Staback               |
| Bunt         | Gannon     | Melio     | Stairs                |
| Burd         | Geist      | Merry     | Steighner             |
| Burns        | George     | Michlovic | Stish                 |
| Bush         | Gigliotti  | Micozzie  | Strittmatter          |
| Caltagirone  | Gladeck    | Miller    | Stuban                |
| Cappabianca  | Godshall   | Moehlmann | Taylor, E. Z.         |
| Carlson      | Gruppo     | Morris    | Taylor, F.            |
| Cawley       | Hagarty    | Mowery    | Taylor, J.            |
| Chadwick     | Haluska    | Nahill    | Telek                 |
| Civera       | Hasay      | Nailor    | Tigue                 |
| Clark, B. D. | Hayes      | O'Brien   | Trello                |
| Clark, D. F. | Heckler    | Perzel    | Van Horne             |
| Clark, J. H. | Herman     | Petrarca  | Veon                  |
| Clymer       | Hershey    | Petrone   | Vroon                 |
| Cohen        | Hess       | Phillips  | Wambach               |
| Colafranca   | Itkin      | Piccola   | Wass                  |
| Colaizzo     | Jackson    | Pistella  | Weston                |
| Cole         | Jadlowiec  | Pitts     | Wilson                |
| Cornell      | Johnson    | Pressmann | Wogan                 |
| Corrigan     | Kaiser     | Raymond   | Wozniak               |
| Cowell       | Kasunic    | Reber     | Wright, D. R.         |
| Coy          | Kenney     | Reinard   | Wright, J. L.         |
| DeLuca       | Kondrich   | Ritter    | Wright, R. C.         |
| Daley        | LaGrotta   | Robbins   | Yandrisevits          |
| Davies       | Langtry    | Robinson  |                       |
| Dempsey      | Lashinger  | Roebuck   | Manderino,<br>Speaker |
| Dietterick   | Laughlin   | Rudy      |                       |
| Dinimii      |            |           |                       |

NAYS—37

- |           |          |           |            |
|-----------|----------|-----------|------------|
| Acosta    | Harper   | Levdansky | Preston    |
| Bishop    | Hayden   | Linton    | Richardson |
| Blaum     | Howlett  | Lloyd     | Rieger     |
| Bortner   | Hughes   | McHale    | Rybak      |
| Bowley    | James    | Mrkonic   | Scrimenti  |
| Broujos   | Jarolin  | Murphy    | Tangretti  |
| DeWeese   | Josephs  | O'Donnell | Thomas     |
| Donatucci | Kosinski | Oliver    | Trich      |
| Evans     | Kukovich | Pievsky   | Williams   |
| Freeman   |          |           |            |

NOT VOTING—1

Gruitza

EXCUSED—9

- |          |       |           |       |
|----------|-------|-----------|-------|
| Birmelin | Fargo | Gamble    | Noye  |
| Carn     | Fee   | Letterman | Olasz |
| Cessar   |       |           |       |

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on third consideration as amended?

RECESS

The SPEAKER. The gentleman, Mr. O'Donnell, requests a recess for lunch at this time.

This House will stand in recess for the purpose of lunch until 2 p.m.

AFTER RECESS

The time of recess having expired, the House was called to order.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman, Representative Pistella, from Allegheny County, who wants the record to reflect that had he been in the hall of the House when the vote was taken on amendment A222 to HB 62, he would have voted in the affirmative, and on final passage of HB 62 he would have been in the affirmative. On amendments 294, 300, 315, and 266 to HB 75, the gentleman would have recorded his vote in the affirmative.

The remarks of the gentleman will be spread upon the record.

COMMUNICATION FROM GOVERNOR

BILL SIGNED BY GOVERNOR

The Secretary to the Governor presented the following communication from His Excellency, the Governor:

APPROVAL OF HB 67.

Commonwealth of Pennsylvania  
Governor's Office  
Harrisburg

February 13, 1989

To the Honorable, the House of Representatives  
of the Commonwealth of Pennsylvania

I have the honor to inform you that I have this day approved and signed House Bill 67, Printer's No. 286, entitled "AN ACT amending the act of June 3, 1937 (P.L. 1333, No. 320), entitled 'An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing

duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections, further providing for the creation of new election districts; providing for the number of signers for the nomination petition for the office of district council member in a city of the second class and providing for the fee for filing the petition; and further providing for assistance in voting.”

Robert P. Casey  
Governor

**REMARKS ON VOTE**

The SPEAKER. The Chair recognizes the gentleman from Monroe, Mr. Battisto, who rises for recognition. For what purpose does the gentleman rise?

Mr. BATTISTO. Mr. Speaker, to correct the record from this morning’s voting.

The SPEAKER. The gentleman is in order, without objection. The Chair hears no objection.

Mr. BATTISTO. Mr. Speaker, on HB 62, final passage, I was on the telephone and I missed the vote. I would like to be recorded in the affirmative. Thank you very much.

The SPEAKER. The gentleman’s remarks on an affirmative vote on HB 62 will be spread upon the record.

**CALENDAR CONTINUED**

**CONSIDERATION OF HB 75 CONTINUED**

On the question recurring,  
Will the House agree to the bill on third consideration as amended?

Mr. DeLUCA offered the following amendment No. A0317:

Amend Sec. 1 (Sec. 2), page 9, by inserting between lines 12 and 13

The term shall include solicitors for political subdivisions regardless of whether the solicitors are employed on a full-time or a part-time basis.

On the question,  
Will the House agree to the amendment?

The SPEAKER. The author, Mr. DeLuca, from Allegheny County, is recognized on the amendment.

Mr. DeLUCA. Thank you, Mr. Speaker.

What we are doing today with amendment A0317 is we are including part-time solicitors, who have been excluded in this present legislation.

Mr. Speaker, if it is our intent to insure public confidence in this Ethics Act, then it is ludicrous to me to suggest that someone who can prepare on issues, contracts, leases, write written opinions, and also draw up ordinances should be excluded from this type of legislation. We are talking about a conflict of interest. There is more potential for a part-time solicitor to have a conflict of interest than there is for part-time local officials out there.

So I ask for an affirmative vote on this issue. Thank you.  
The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum.  
Mr. BLAUM. Thank you, Mr. Speaker.  
Mr. Speaker, I rise to support the amendment. I think it is a good addition to the bill, and I ask the House to approve the DeLuca amendment.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—190**

Acosta	Donatucci	Lashingier	Robinson
Adolph	Dorr	Laughlin	Roebuck
Allen	Durham	Lee	Rudy
Angstadt	Evans	Leh	Ryan
Argall	Fairchild	Lescovitz	Rybak
Barley	Farmer	Levdansky	Saloom
Battisto	Fleagle	Lloyd	Saurman
Belardi	Flick	Lucyk	Scheetz
Belfanti	Foster	McCall	Schuler
Billow	Fox	McHale	Scrimenti
Bishop	Freeman	McNally	Semmel
Black	Freind	McVerry	Serafini
Blaum	Gallen	Maiale	Smith, B.
Bortner	Gannon	Maine	Smith, S. H.
Bowley	Geist	Markosek	Snyder, D. W.
Boyes	George	Marsico	Snyder, G.
Brandt	Gigliotti	Mayernik	Staback
Broujos	Gladeck	Melio	Stairs
Bunt	Godshall	Merry	Steighner
Burd	Gruitza	Michlovic	Stish
Burns	Gruppo	Micozzie	Strittmatter
Bush	Hagarty	Miller	Stuban
Caltagirone	Haluska	Moehlmann	Tangretti
Cappabianca	Harper	Morris	Taylor, E. Z.
Carlson	Hasay	Mowery	Taylor, F.
Cawley	Hayden	Mrkonic	Taylor, J.
Chadwick	Hayes	Murphy	Telek
Civera	Heckler	Nahill	Thomas
Clark, D. F.	Herman	Nailor	Tigue
Clark, J. H.	Hershey	O'Brien	Trello
Clymer	Hess	O'Donnell	Trich
Cohen	Howlett	Oliver	Van Horne
Colafella	Hughes	Perzel	Veon
Colaizzo	Itkin	Petrarca	Vroon
Cole	Jackson	Petrone	Wambach
Cornell	Jadlowiec	Phillips	Wass
Corrigan	James	Piccola	Weston
Cowell	Jarolin	Pievsky	Williams
Coy	Johnson	Pistella	Wilson
DeLuca	Josephs	Pitts	Wogan
DeWeese	Kaiser	Pressmann	Wozniak
Daley	Kasunic	Preston	Wright, D. R.
Davies	Kenney	Raymond	Wright, J. L.
Dempsey	Kondrich	Reinard	Wright, R. C.
Dietterick	Kosinski	Richardson	Yandrisevits
Dininni	Kukovich	Rieger	
Distler	LaGrotta	Ritter	Manderino,
Dombrowski	Langtry	Robbins	Speaker

**NAYS—0**

**NOT VOTING—3**

Clark, B. D. Linton Reber

**EXCUSED—9**

Birmelin	Fargo	Gamble	Noye
Carn	Fee	Letterman	Olasz
Cessar			

Less than a constitutional two-thirds majority having voted "aye," the question was determined in the negative.

Ordered, That the Governor be informed accordingly.

On the question,

Will the Senate advise and consent to the remainder of the nominations?

The yeas and nays were required by Senator WILT and were as follows, viz:

**YEAS—50**

Afflerbach	Greenleaf	Madigan	Ross
Andrezski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lewis	Reibman	Wenger
Fattah	Lincoln	Rhoades	Williams
Fisher	Loeper	Rocks	Wilt
Fumo	Lynch		

**NAYS—0**

A constitutional two-thirds majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

**EXECUTIVE SESSION RISES**

Senator WILT. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to.

**CONSIDERATION OF CALENDAR RESUMED**

**THIRD CONSIDERATION CALENDAR**

**BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 75 (Pr. No. 2027)** — The Senate proceeded to consideration of the bill, entitled:

An Act reenacting and amending the act of October 4, 1978 (P. L. 883, No. 170), referred to as the "Public Official and Employee Ethics Law," adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; and making an appropriation.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

**LEGISLATIVE LEAVE CANCELLED**

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Wenger. His temporary Capitol leave will be cancelled.

And the question recurring,  
Shall the bill pass finally?

Senator LOEPER. Mr. President, very briefly, I would like to just take the opportunity, before we vote on House Bill No. 75, to extend my appreciation not only to the Members from the other side of the aisle who worked with us to try and fashion a bill that we believe to be a responsible bill, but also particularly to the gentleman from Butler, Senator Shaffer, and the gentleman from Lebanon, Senator Brightbill, on this side of the aisle, who worked very diligently to make sure that we had before us today an ethics bill that would not only reestablish the commission but really be a bill that is in the best interests of all Pennsylvanians.

Senator HESS. Mr. President, much has been said about ethics. As a matter of fact, there was even a sign under the dome down there that I thought very insulting to the Members of this Body and to the Body of the House and to those who serve in public office. Unfortunately, someone stole it before I had a chance. I also thought it was an insult to my mother and my father in their memory and to the parents of everyone in this Body. They taught me more values than any damn bill will ever do. I would just like to read a quote from an article that appeared in one of our local papers. It is by Dudley Fishburn who is a member of the British Parliament. I quote, "The sins of the world are many—many more than any code of ethics could seek to cover. The more 'ethics' are the outside voice of the public or the press rather than the inside one of the politician, the less ethical will be that politician's behavior."

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

**YEAS—50**

Afflerbach	Greenleaf	Madigan	Ross
Andrezski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lewis	Reibman	Wenger
Fattah	Lincoln	Rhoades	Williams
Fisher	Loeper	Rocks	Wilt
Fumo	Lynch		

**NAYS—0**

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

Daley	Kosinski	Preston	Wright, J. L.
Davies	Kukovich	Raymond	Wright, R. C.
Dempsey	LaGrotta	Reber	Yandrisevits
Dietterick	Langtry	Reinard	
Distler	Lashinger	Richardson	Manderino,
Dombrowski	Laughlin	Rieger	Speaker
Donatucci			

NAYS—0

NOT VOTING—7

Bishop	Dininni	Josephs	Thomas
Carn	James	Olasz	

EXCUSED—1

Durham

The question was determined in the affirmative, and the amendments were agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—188

Acosta	Donatucci	Laughlin	Ritter
Adolph	Dorr	Lee	Robbins
Allen	Evans	Leh	Robinson
Angstadt	Fairchild	Lescovitz	Roebuck
Argall	Fargo	Letterman	Rudy
Barley	Farmer	Levdansky	Ryan
Battisto	Fee	Linton	Saloom
Belfanti	Fleagle	Lucyk	Saurman
Billow	Flick	McCall	Scheetz
Birmelin	Foster	McHale	Schuler
Bishop	Fox	McNally	Scrimenti
Black	Freind	McVerry	Semmel
Bortner	Gallen	Maiale	Serafini
Bowley	Gamble	Maine	Smith, B.
Boyes	Gannon	Markosek	Smith, S. H.
Brandt	Geist	Marsico	Snyder, D. W.
Broujos	George	Mayernik	Snyder, G.
Bunt	Gigliotti	Melio	Staback
Burd	Gladeck	Merry	Stairs
Burns	Godshall	Michlovic	Steighner
Bush	Gruitza	Micozzie	Stish
Caltagirone	Gruppo	Miller	Strittmatter
Cappabianca	Hagarty	Moehlmann	Stuban
Carlson	Haluska	Morris	Tangretti
Carn	Hasay	Mowery	Taylor, E. Z.
Cessar	Hayden	Murphy	Taylor, F.
Chadwick	Hayes	Nahill	Taylor, J.
Civera	Heckler	Nailor	Telek
Clark, B. D.	Herman	Noye	Thomas
Clark, D. F.	Hershey	O'Brien	Trello
Clark, J. H.	Hess	O'Donnell	Trich
Clymer	Howlett	Oliver	Van Horne
Cohen	Hughes	Perzel	Veon
Colafrilla	Itkin	Pesci	Vroon
Colaizzo	Jackson	Petrarca	Wambach
Cole	Jadlowiec	Petrone	Wass
Cornell	Jarolin	Phillips	Weston
Corrigan	Johnson	Piccola	Williams
Cowell	Josephs	Pievsky	Wilson
Coy	Kaiser	Pistella	Wogan
DeLuca	Kasunic	Pitts	Wozniak
DeWeese	Kenny	Preston	Wright, D. R.

Daley	Kondrich	Raymond	Wright, J. L.
Davies	Kosinski	Reber	Wright, R. C.
Dempsey	Kukovich	Reinard	
Dietterick	LaGrotta	Richardson	Manderino,
Distler	Langtry	Rieger	Speaker
Dombrowski	Lashinger		

NAYS—10

Belardi	Freeman	Pressmann	Tigue
Blaum	Lloyd	Rybak	Yandrisevits
Cawley	Mrkonic		

NOT VOTING—4

Dininni	Harper	James	Olasz
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EXCUSED—1

Durham

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

**BILLS ON CONCURRENCE IN SENATE AMENDMENTS CONTINUED**

The clerk of the Senate, being introduced, returned the following **HB 75, PN 2027**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested:

An Act reenacting and amending the act of October 4, 1978 (P. L. 883, No. 170), referred to as the "Public Official and Employee Ethics Law," adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; and making an appropriation.

On the question,

Will the House concur in Senate amendments?

The SPEAKER. It is moved by Representative Blaum that the House do concur in the amendments inserted by the Senate. The question recurs, will the House concur in the amendments inserted by the Senate? The Chair recognizes the gentleman from Luzerne, Representative Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, before us today is HB 75, which I think all the members of this General Assembly can be proud of, which formulates one of the toughest and strongest ethics acts in the entire country. Indeed, it defines for the first time "conflict of interest."

Pennsylvania is leading this country in the fact that Pennsylvania will be the first governmental entity that our research could uncover to ban honoraria for public and elected officials. We ban severance agreements where they present the possibility of a conflict and mandate the reporting of transportation, lodging, and hospitality.

In addition, HB 75 expands the definition of "immediate family," all these things to increase the confidence of the people of Pennsylvania in their government. I think the

people of Pennsylvania can be very proud of the work that has been done over the last 6 months by the Pennsylvania Senate and the Pennsylvania House of Representatives.

I ask the members for the affirmative vote, and we will send to Governor Casey for his signature an outstanding piece of legislation, again, which the members of this body can be very proud of. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, from Berks County, Mr. Davies, is recognized.

Mr. DAVIES. Mr. Speaker, I am not going to belabor this version of the bill any more than I did the last version. The previous speaker called this a tough bill and so forth and so on. From the various aspects of it that I spoke to before, I call it pabulum. It is more of the same, and it does not really address many of the issues that we should look at as far as where we are with the role of leadership and actions of the restrictions on some members' activities and so forth and so on.

But I will probably be that only red light again, but I still think it is more of the same. Thank you.

The SPEAKER. From Bucks County, Representative Heckler is recognized.

Mr. HECKLER. Thank you, Mr. Speaker.

I would ask the sponsor of the bill to stand for a brief interrogation.

The SPEAKER. The question before the House is the Senate amendments.

The sponsor of the bill indicates that he will stand for interrogation.

Mr. HECKLER. Thank you, Mr. Speaker.

Mr. Speaker, I note that the Senate has amended the definition of "governmental body" to include the term "any agency performing a governmental function." The significance of that definition is that in subsequent reporting requirements in the bill, hospitality, lodging, that sort of thing which is received from a governmental body, is exempted from the reporting requirement.

I would like to pose a hypothetical and ask if you may be able to clarify for me and the members of this body what is meant by an agency performing a governmental function. The hypothetical would be, let us say that I am the mayor of a borough and that that borough has entered into an arrangement by which a private corporation for profit is collecting all of the trash in our borough. That, it would seem to me, is a governmental function. If that private corporation wants to take me and my wife out to the mountains for the weekend or otherwise wine and dine us in a way that would be reportable otherwise, do you have an understanding whether this particular activity, whether this particular private corporation would fall within the definition of "any agency performing a governmental function"?

Mr. BLAUM. Thank you, Mr. Speaker.

The gentleman's question is a good one for the purposes of intent, and it is good that we can get that on the record.

No, they would not be classified as a governmental agency. What the Senate did was attempt to include any agency, association of elected officials, any public agency, authority, other than the elected commissioners, councilmen themselves. But it would not apply, specifically not apply, to any private entrepreneur group that may in the era of privatization of some governmental responsibilities, it would not apply to them at all, Mr. Speaker.

Mr. HECKLER. Thank you.

That concludes my interrogation, Mr. Speaker. I wonder if I might comment on the bill?

The SPEAKER. The gentleman is in order, briefly.

Mr. HECKLER. Thank you, Mr. Speaker. I will try and be brief. It is easy to be brief.

This bill, unlike the last time we sent a strong ethics bill to the Senate, this bill has come back, for the most part, stronger than it left this House. I would suggest that the gentleman, Mr. Blaum's comments are entirely correct. We have before us a strong, effective ethics bill. I think we have done something of which this legislature and this Commonwealth can be proud.

I had concerns about the matter which I raised in interrogation, and I am voting for this bill specifically based on my understanding that the term "agency," as referred to in the definition of "governmental body," does not apply to a private corporation or individual which may contract with government. But based on that understanding, I am looking forward to casting my vote in favor of concurrence to send this bill on to the Governor. Thank you.

The SPEAKER. From Lehigh County, the Chair recognizes Representative McHale.

Mr. McHALE. Thank you, Mr. Speaker.

To comment on the bill?

The SPEAKER. You are in order.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I respectfully disagree with the comments that were made a few moments ago by the gentleman, Mr. Davies, and it is with pleasure that I paraphrase something that I said last November. This is a bill which invites and sanctions integrity. I strongly urge my colleagues to vote for it.

On the question recurring,

Will the House concur in Senate amendments?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

#### YEAS—199

Acosta	Dorr	Laughlin	Ritter
Adolph	Evans	Lee	Robbins
Allen	Fairchild	Leh	Robinson
Angstadt	Fargo	Lescovitz	Roebuck
Argall	Farmer	Letterman	Rudy
Barley	Fee	Levdansky	Ryan
Battisto	Fleagle	Linton	Rybak
Belardi	Flick	Lloyd	Saloom
Belfanti	Foster	Lucyk	Saurman
Billow	Fox	McCall	Scheetz
Birmelin	Freeman	McHale	Schuler
Bishop	Freind	McNally	Scrimenti
Black	Gallen	McVerry	Semmel
Blaum	Gamble	Maiale	Serafini
Bortner	Gannon	Maine	Smith, B.

Bowley	Geist	Markosek	Smith, S. H.
Boyes	George	Marsico	Snyder, D. W.
Brandt	Gigliotti	Mayernik	Snyder, G.
Broujos	Gladeck	Melio	Staback
Bunt	Godshall	Merry	Stairs
Burd	Gruitza	Michlovic	Steighner
Burns	Gruppo	Micozzie	Stish
Bush	Hagarty	Miller	Strittmatter
Caltagirone	Haluska	Moehlmann	Stuban
Cappabianca	Harper	Morris	Tangretti
Carlson	Hasay	Mowery	Taylor, E. Z.
Carn	Hayden	Mrkonic	Taylor, F.
Cawley	Hayes	Murphy	Taylor, J.
Cessar	Heckler	Nahill	Telek
Chadwick	Herman	Nailor	Thomas
Civera	Hershey	Noye	Tigue
Clark, B. D.	Hess	O'Brien	Trello
Clark, D. F.	Howlett	O'Donnell	Trich
Clark, J. H.	Hughes	Oliver	Van Horne
Clymer	Itkin	Perzel	Veon
Cohen	Jackson	Pesci	Vroon
Colaifella	Jadlowiec	Petrarca	Wambach
Colaizzo	James	Petrone	Wass
Cole	Jarolin	Phillips	Weston
Cornell	Johnson	Piccola	Williams
Corrigan	Josephs	Pievsky	Wilson
Cowell	Kaiser	Pistella	Wogan
Coy	Kasunic	Pitts	Wozniak
DeLuca	Kenney	Pressmann	Wright, D. R.
DeWeese	Kondrich	Preston	Wright, J. L.
Daley	Kosinski	Raymond	Wright, R. C.
Dempsey	Kukovich	Reber	Yandrisevits
Dieterick	LaGrotta	Reinard	
Distler	Langtry	Richardson	Manderino,
Dombrowski	Lashingier	Rieger	Speaker
Donatucci			

**NAYS—1**

Davies

**NOT VOTING—2**

Dininni

Olasz

**EXCUSED—1**

Durham

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

**FILMING PERMISSION**

The SPEAKER. The Chair informs the members of the House that channel 3 from Philadelphia has been granted the right to videotape on the floor for the next 10 minutes. Where is the cameraman? The cameraman is sitting in the press gallery.

**RULES SUSPENDED**

The SPEAKER. The Chair recognizes, from Erie County, Representative Dombrowski.

Mr. DOMBROWSKI. Mr. Speaker, I move that the rules of the House be suspended so that HR 152 may be immediately considered.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.

**RESOLUTION ADOPTED**

The SPEAKER. HR 152 will be read by the clerk.

The following resolution was read:

**House Resolution No. 152**

**A RESOLUTION**

Commemorating the week of June 11 through 17, 1989, as "State Veterans' Homes Week."

WHEREAS, Robert P. Casey, Governor of the Commonwealth of Pennsylvania, has proclaimed the week of June 11 through 17, 1989, as "State Veterans' Homes Week"; and

WHEREAS, It will be the first time in Pennsylvania's history that veterans' homes have been recognized in this manner; and

WHEREAS, The three State veterans' homes in Pennsylvania—the Pennsylvania Soldiers' and Sailors' Home, the Hollidaysburg Veterans' Home and the Southeast Pennsylvania Veterans' Center—are participating with planned activities to celebrate the week and are paying tribute to our veterans who served gallantly to preserve our freedom; and

WHEREAS, The ceremony for the signing of the proclamation by Governor Casey will take place on Friday, June 16, 1989, at 12 noon in the Governor's Public Reception Room of the Main Capitol Building, and the proclamation will be presented to the commandants of the three veterans' homes; therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania commemorate the week of June 11 through 17, 1989, as "State Veterans' Homes Week."

Bernard J. Dombrowski  
Italo S. Cappabianca  
Thomas J. Scrimenti  
Karl W. Boyes

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

**YEAS—200**

Acosta	Donatucci	Laughlin	Ritter
Adolph	Dorr	Lee	Robbins
Allen	Evans	Leh	Robinson
Angstadt	Fairchild	Lescovitz	Roebuck
Argall	Fargo	Letterman	Rudy
Barley	Farmer	Levdansky	Ryan
Battisto	Fee	Linton	Rybak
Belardi	Fleagle	Lloyd	Saloom
Belfanti	Flick	Lucyk	Saurman
Billow	Foster	McCall	Scheetz
Birmelin	Fox	McHale	Schuler
Bishop	Freeman	McNally	Scrimenti
Black	Freind	McVerry	Semmel
Blaum	Gallen	Maiale	Serafini
Bortner	Gamble	Maine	Smith, B.
Bowley	Gannon	Markosek	Smith, S. H.
Boyes	Geist	Marsico	Snyder, D. W.
Brandt	George	Mayernik	Snyder, G.
Broujos	Gigliotti	Melio	Staback
Bunt	Gladeck	Merry	Stairs
Burd	Godshall	Michlovic	Steighner
Burns	Gruitza	Micozzie	Stish
Bush	Gruppo	Miller	Strittmatter
Caltagirone	Hagarty	Moehlmann	Stuban
Cappabianca	Haluska	Morris	Tangretti
Carlson	Harper	Mowery	Taylor, E. Z.