

Legislation Text

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Amending Title 20 of The Philadelphia Code, entitled "Officers and Employees," by revising the penalties for violation of various ethics and ethics-related provisions, including Chapter 20-600 ("Standards of Conduct and Ethics") and Chapter 20-1000 ("Political Contributions and Expenditures"), all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 20 of The Philadelphia Code is hereby amended to read as follows:

TITLE 20. OFFICERS AND EMPLOYEES.

\* \* \*

CHAPTER 20-600. STANDARDS OF CONDUCT AND ETHICS.

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§20-612. Penalties and Other Consequences of Violations.

(1) Penalties for violations of this Chapter shall be as set forth in Chapter 20-1300. [In addition to the penalties as presently provided by law, any person in violation of this Chapter shall be subject to a civil penalty of seven hundred dollars (\$700) for each violation committed during calendar year 2005; eleven hundred dollars (\$1,100) for each violation committed during calendar year 2006; fifteen hundred dollars (\$1,500) for each violation committed during calendar year 2007; nineteen hundred dollars (\$1,900) for each violation committed during calendar year 2008; and two thousand dollars (\$2,000) for each violation committed thereafter. Except with respect to Section 20-610, any person in violation of this Chapter is forever disqualified from holding any elected or appointed City office or employment with the City, its agencies, authorities, boards or commissions.]

(2) City Council shall have the right to repeal legislation enacted in violation of this [ordinance] Chapter. The Mayor, with the concurrence of a majority of all the members of City Council, may void any award, contract, lease, case, claim, decision, decree or judgment made in violation of this [ordinance] Chapter, provided that no such legislative act including ordinances and resolutions, award, contract, lease, case, claim, decision, decree of judgment may be avoided because of the interest of an officer or employee unless such contract is made in the official capacity of such officer or employee or by a board or body of which he is an officer, member or employee.

[(3) Repeat Offenders. Any person who commits, on more than one occasion, a violation of this

Chapter, shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than three hundred (300) dollars, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation offense.]

§20-613. Ethics-Related Matters Incorporated as Part of this Chapter.

(1) The following provisions of the Code are incorporated by reference as part of this Chapter and shall be subject to the jurisdiction of the Board of Ethics under § 20-606 (including, but not limited to, the Board’s powers and duties relating to education, training, issuance of advisory opinions, receipt of complaints, investigations, referral, and adjudication), and violations of these provisions shall be subject to the penalties set forth in [§20-612] *Chapter 20-1300*:

\* \* \*

CHAPTER 20-1000. POLITICAL CONTRIBUTIONS AND EXPENDITURES.

\* \* \*

§20-1006. Campaign Finance Disclosure.

\* \* \*

(4) The failure to file information and as required by this Section, or the making of material misstatements or omissions in any filing required by this Section, shall be deemed to be a violation of [Chapter 20-600 (Standards of Conduct and Ethics)] *Chapter 20-1300 (Penalties for Campaign Finance-Related and Ethics-Related Violations)* and subject to enforcement and the imposition of penalties under that Chapter.

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§20-1008. Penalties.

[A violation of this Chapter shall be punishable by a civil penalty in the amount set forth in §20-612 (relating to violations of the Standards of Conduct and Ethics).] *Penalties for violations of this Chapter shall be as set forth in Chapter 20-1300.* The provisions of this Chapter shall be subject to the jurisdiction of the Board of Ethics under §20-606, including, but not limited to, the Board’s powers and duties relating to education, training, issuance of advisory opinions, receipt of complaints, investigations, referral, and adjudication.

*CHAPTER 20-1300. PENALTIES FOR CAMPAIGN FINANCE-RELATED AND ETHICS-RELATED VIOLATIONS.*

*§20-1301. Each violation of the following provisions shall be subject to the specified penalties set forth below:*

(1) §20-1002(1), (2), (3), (4), and (5) and §20-1010 (accepting contributions which exceed limits): Each violation shall be subject to a fine or civil penalty of three times the amount by which an accepted contribution exceeded the limit, or \$2,000, whichever is less. If the candidate who accepted an excess contribution returns the excess amount to the donor within fifteen (15) days after receiving the contribution and so notifies the Board of Ethics in writing, then no fine or civil penalty shall be imposed.

(2) §20-1006(4) (campaign finance filings) and §20-1011 (litigation fund filings): For failure to file a report in electronic format as required, a fine or civil penalty of \$250 shall be imposed. Each day the report remains unfiled shall be considered a separate offense for which an additional fine or civil penalty may be imposed, provided that the total fines or civil penalties that may be imposed for failure to file a particular report shall not exceed \$2,000 for the first thirty days the report remains unfiled, plus \$1,000 for each additional thirty day period (or part thereof) the report remains unfiled.

(3) §20-606(1)(b) (failure to attend ethics training) and §20-611 (failure to provide copy of Ethics Code to employees): Each violation shall be subject to a fine or civil penalty of up to two hundred and fifty dollars (\$250).

§20-1302. All other violations of Chapters 20-600 or 20-1000 shall be subject to a fine or civil penalty of one thousand dollars (\$1,000), subject to the following provisions.

(1) *Definitions.* For purposes of this section the following definitions apply.

(a) *Mitigating Factors.* The following are mitigating factors:

(i) *Good faith effort to comply.* The violator is found to have made a good faith effort to comply with the law.

(ii) *Prompt corrective action.* The violator is found to have taken prompt corrective action where corrective action was possible to remedy the violation.

(iii) *Prompt self-reporting.* The violator is found to have reported promptly his or her violation to the Board of Ethics.

(iv) *Such other circumstances as may be identified by the Board of Ethics, by regulation, to warrant a reduced penalty.*

(b) *Aggravating Factors.* The following are aggravating factors:

(i) *Intent.* The violator is found to have acted knowingly. An act is done knowingly if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

(ii) *Repeat violation.* The violator previously has been found by the Board of Ethics in an administrative adjudication or by a court of competent jurisdiction to have violated the same provision.

*(iii) Obstruction of investigation. The violator is found to have obstructed the investigation of the Board of Ethics into the same violation.*

*(iv) Such other circumstances as may be identified by the Board of Ethics, by regulation, to warrant an enhanced penalty.*

*(2) Consideration and Effect of Mitigating Factors and Aggravating Factors.*

*(a) When considering the imposition of a penalty under this section, the Board of Ethics in an administrative adjudication or court of competent jurisdiction shall make factual findings regarding mitigating factors and aggravating factors.*

*(b) The one thousand dollar (\$1,000) fine or civil penalty set forth in §20-1302 shall be reduced by five hundred dollars (\$500) if one mitigating factor is present and shall decrease by seven hundred and fifty dollars (\$750) if more than one mitigating factor is present.*

*(c) The one thousand dollar (\$1,000) fine or civil penalty set forth in §20-1302 shall be increased by \$1,000 for each aggravating factor that is present, provided that the total fine or civil penalty that may be imposed for one violation shall not exceed two thousand dollars (\$2,000).*

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**Explanation:**

[Brackets] indicate matter deleted.

*Italics* indicate new matter added.