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Senate Bill 970 – Public Ethics – Disclosures and Fines and Penalties – Revisions

Testimony before the Education, Health, and Environmental Affairs Committee

Senate Bill 970 – Public Ethics – Disclosures and Fines and Penalties – Revisions, as amended by the Sponsor, would change the Public Ethics Law (“Law”) in several areas, to include certain disclosure requirements by members of the General Assembly with respect to gifts of tickets and free admission to events offered by the person sponsoring or conducting the event as well as related reporting requirements by lobbyists, criminal penalties imposed for a misdemeanor conviction under the lobbying provisions of the Law, and duties of the Counsel to the Ethics Committee. The State Ethics Commission (“Commission”) takes no position on these proposed changes as the Commission believes these policy matters are more appropriately addressed by the General Assembly. However, the bill also changes the Law in terms of increasing the late fees the Commission can assess for violations of the Law. For the reasons discussed below, the Commission supports these proposed changes.

The Law currently authorizes the Commission to impose late fees in the amount of \$10 per day, not to exceed a total of \$1,000, for each report that is filed late by a regulated lobbyist, and currently authorizes the Commission to impose late fees in the amount of \$5 per day, not to exceed a total of \$500, for each financial disclosure statement filed late by a financial disclosure filer. The bill would raise the late fees the Commission could impose on lobbyists to \$30 per day, not to exceed a total of \$3,000, and would raise the late fees the Commission could impose on financial disclosure filers to \$15 per day, not to exceed a total of \$1,500.

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

exceeding \$5,000 per violation¹. The bill would raise Commission's authority to impose a fine on lobbyists to \$15,000 for each violation and would raise a court's ability to impose a fine to \$15,000 for each violation of the Ethics Law.

The late fees in the case of financial disclosure filers were added to the Law in 1990 and have been increased once since that time, in 2014 when they were raised to their present level. The late fees in the case of lobbyists were added to the Law in 1987 and have also been increased once since that time, in 2014 when they too were raised to their present level. The Commission has had the authority to impose a \$5,000 fine for violations of the Law by regulated lobbyists since 2001. With respect to the ability to petition a court to impose a fine, the Commission has had that authority since the initial passage of the Public Ethics Law in 1979. The fine was initially limited to \$1,000 and subsequently raised to its current \$5,000 level in 1986.

Increasing the penalties the Commission may impose for violations of the Ethics Law would significantly and meaningfully enhance the deterrent effect of fines and fees and make clear that ethics violations are serious offenses warranting serious sanctions. It is particularly noteworthy that the authorized fines have not been increased since 1986 (in the case of a court petition) and 2001 (in the case of the Commission's authority to impose a fine on lobbyists) respectively. The Commission supports these proposed changes to the Law.

¹ Senate Bill 283, which is being considered by this Committee today, also addresses the Commission's authority to impose fines. SB283 would provide the Commission with additional authority by permitting the Commission to directly impose a fine not exceeding \$5,000 for each violation of the Law. The Commission is submitting written testimony in support of SB283.