

DRAFT TESTIMONY
BY RICHARD A. STAFFORD
RE SENATE RESOLUTION NO. 228
BEFORE THE SENATE RULES COMMITTEE
February 3, 2010

My name is Rick Stafford. I am here today to voice my support for SR 228, recommend its adoption and offer a few thoughts for your further consideration.

My current title is Distinguished Service Professor of Public Policy in the Heinz College at Carnegie Mellon University. I'll leave to the judgment of others whether the "distinguished" is appropriate. I will speak only to my "service" since it is my primary qualification in addressing today's discussion of SR 228.

On the political campaign front, I have participated in several political campaigns and have witnessed many more.

On the governmental service front, I have served in Pennsylvania government in a number of positions starting with directing the transition of government from Governor Shapp to Governor Thornburgh. I served stints under Governor Thornburgh as Secretary for Legislative Affairs as well as in his final year, his chief of staff. I have also served as a commissioner on the Independent Regulatory Review Commission.

On the corporate front, I have worked for a research laboratory and an investment banking firm. As a Pennsylvania small businessman, I have owned a radio business in Washington County and am currently a proud part of a family farm business in Somerset County.

On the community and economic development front, I ran a southwestern Pennsylvania regional non-profit economic and community development organization for over a decade.

Finally, and most significantly, on the citizen front, I have been a lifetime citizen of this Commonwealth. All of these experiences have provided me with a variety of perspectives on our state government and its operation.

Currently, my interests as a professor focus on bringing the experience I just described to the study of the public policy making process, particularly at the state level. My research and teaching attempt to address the question of how to improve the public policy making process, particularly from the citizen side, what I refer to as "civic campaigning". As I like to describe it election campaigns are about candidates trying to convince citizens to elect them to office. Civic campaigns are about citizens trying to convince elected office-holders to vote for some legislation they want to see enacted.

An elected official cannot immerse herself in public policy making without immersing herself in the legislative process. The legislative process is all about making policy decisions. Those decisions are in turn subject to public review and accountability through the political campaign process.

Looking through the glass from the other side, political campaigns are about candidates making commitments about what policy decisions they will make once elected to office.

The legislative process therefore is inescapably part of the political campaign process. And the political campaign process is inescapably part of the legislative process. While there is a need for guidelines on ethical behavior, we must be careful not to criminalize politics. Indeed, politics and politicians are preferable to war and warriors when it comes to solving the inevitable differences.

Conflict resolution through the democratic process requires that every member of the General Assembly must at all times wear two hats...legislator and political candidate...in order to serve the public interest and the democratic process. It may not be possible to take one off at any time. Nonetheless the public is entitled to expect a legislator to make a separation when it comes to the use of their tax dollars. To the average taxpayer, it is justifiable and understandable for her or his tax dollars to be used to enable legislators, wearing their legislator hat, to fulfill their role in the legislative process. However, to the average taxpayer, it is not justifiable and understandable for his or her taxes to be used to support expenditures that are clearly for the political candidate's campaign.

SR 228 addresses that balance and strikes it in a laudable fashion. Its approval puts that balance on record for all to understand and follow. Of course, as with all Rules, times will change. Interpretation of what is ethical will change. And the need for amendment will arise. But the Senate will be better and the public will be served by putting these Rules in force as a benchmark for the future.

I want to particularly applaud the provisions under Rule 12 providing for training. While it may sound like an obvious thing for an educator to say, the need for educating all those affected by these Rules on a recurring basis is crucial. Legislative agendas are crowded, and legislative life can be hectic. There is a risk that unless they are periodically refreshed, legislators will lose sight of the ethical lines that are drawn by these Rules and by other statutes. Perhaps even more relevant, the ongoing education will establish the culture for which the sponsors of SR 228 are striving. One specific suggestion is to ensure that the provisions of this rule extend to new employees as part of an orientation in addition to the annual provision.

The education required by Rule 12 applies not only to the rules proposed in SR 228 but also recognizes the need for training in to embrace the Ethics Act as well as the lobbying disclosure act. Indeed, there are other requirements that Senators should keep top of mind such as campaign finance laws and open records provisions and so on. My reason for this observation is that a reader who only reviews SR 228 may assume its provisions lack guidance in one or more of these areas dealt with in other rules and statutes. It might be wise to reference other provisions dealing with the broader subject of ethical behavior at the beginning of these rules so that it is perfectly clear to the reader that the rules in SR 228 go further and supplement rather than substitute for provisions found elsewhere.

A question I would raise regards the provision (i) dealing with protection against retaliation under Rule 9. Can there be some clarification as to how it will be determined if retaliation has indeed occurred?

In closing, allow me a few hopes for the future. I hope these rules become a subject for consideration and adoption of their equivalent by the other Chamber of the General Assembly. If that happens, I hope they may they become the subject for a statute to give them more permanence for both chambers and for the elected officials in the executive branch as well. Of

course, I refer to the governor, attorney general, auditor general, and treasurer. And, while only subject to retention election, might they also be applicable to elected judges as well?

Thank you for the opportunity to be here today. But more, thank you for your work on these rules. They will help all Senators who must deal daily with the difficult challenge of wearing two hats. And they will be better able to wear both. And thank you for devoting yourselves to the ethical practice of politics and policymaking. It's a difficult but necessary public service.