

7400--A

I N S E N A T E

April 7, 2010

Introduced by Sens. STEWART-COUSINS, SQUADRON, DUANE, OPPENHEIMER, PARKER, SAMPSON, SERRANO -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to conflicts of interest of municipal officers and employees, codes of ethics and boards of ethics; to amend chapter 946 of the laws of 1964 amending the general municipal law and other laws relating to conflicts of interest of municipal officers and employees, in relation to permitting local codes of ethics to prohibit activities expressly permitted by article 18 of the general municipal law; and to repeal paragraphs (d) and (e) of subdivision 3 of section 806 and section 813 of the general municipal law relating to the temporary state commission on local government ethics

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 3 of section 800 of the general municipal law,
2 as amended by chapter 1043 of the laws of 1965, is amended to read as
3 follows:
4 3. "Interest" means a direct or indirect pecuniary or material benefit
5 accruing to a municipal officer or employee, OR HIS OR HER SPOUSE, as
6 the result of a contract with the municipality which such officer or
7 employee serves. For the purposes of this article a municipal officer or
8 employee OR HIS OR HER SPOUSE shall be deemed to have an interest in the
9 contract of (a) his OR HER spouse, minor children and dependents, except
10 a contract of employment with the municipality which such officer or
11 employee serves, (b) a firm, partnership or association of which such
12 officer or employee, OR HIS OR HER SPOUSE, is a member or employee, (c)
13 a corporation of which such officer or employee, OR HIS OR HER SPOUSE,
14 is an officer, director or employee and (d) a corporation any stock of

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 which is owned or controlled directly or indirectly by such officer or
2 employee, OR HIS OR HER SPOUSE.

3 S 2. Section 801 of the general municipal law, as amended by chapter
4 1043 of the laws of 1965, is amended to read as follows:

5 S 801. Conflicts of interest prohibited. Except as provided in section
6 eight hundred two of this chapter, (1) no municipal officer or employee
7 shall have an interest in any contract with the municipality of which he
8 OR SHE is an officer or employee, when such officer or employee, indi-
9 vidually or as a member of a board, has the power or duty to (a) negoti-
10 ate, prepare, authorize or approve the contract or authorize or approve
11 payment thereunder, (b) audit bills or claims under the contract, or (c)
12 appoint an officer or employee who has any of the powers or duties set
13 forth above [and]; (2) no chief fiscal officer, treasurer, or his OR HER
14 deputy or employee, shall have an interest in a bank or trust company
15 designated as a depository, paying agent, registration agent or for
16 investment of funds of the municipality of which he OR SHE is an officer
17 or employee; AND (3) NO MUNICIPAL OFFICER OR EMPLOYEE WHOSE SERVICE TO A
18 MUNICIPALITY INCLUDES RENDITION OF PROFESSIONAL SERVICES REQUIRING
19 ADMISSION TO THE PRACTICE OF LAW SHALL (A) HAVE AN INTEREST IN ANY
20 CONTRACT FOR RENDITION OF LEGAL SERVICES TO THE MUNICIPALITY, UNLESS (I)
21 THE CONTRACT IS AWARDED ON THE BASIS OF A COMPETITIVE PROCESS UNDERTAKEN
22 IN ACCORDANCE WITH THE MUNICIPALITY'S PROCUREMENT POLICIES AND PROCE-
23 DURES ADOPTED PURSUANT TO SECTION ONE HUNDRED FOUR-B OF THIS CHAPTER,
24 AND (II) THE MUNICIPALITY HAS THE ADVICE OF INDEPENDENT COUNSEL WITH
25 RESPECT TO THE ADVISABILITY OF THE PROVISIONS OF THE CONTRACT, OR (B)
26 COMPENSATE ANY PERSON OR ORGANIZATION FROM HIS OR HER PERSONAL RESOURCES
27 TO RENDER LEGAL SERVICES TO THE MUNICIPALITY. The provisions of this
28 section shall in no event be construed to preclude the payment of lawful
29 compensation and necessary expenses of any municipal officer or employee
30 in one or more positions of public employment, the holding of which is
31 not prohibited by law.

32 S 3. The general municipal law is amended by adding a new section
33 803-a to read as follows:

34 S 803-A. RECUSAL AND ABSTENTION. 1. EXCEPT AS PROVIDED IN SUBDIVISION
35 TWO OF THIS SECTION, NO MUNICIPAL OFFICER OR EMPLOYEE SHALL PARTICIPATE
36 IN ANY OFFICIAL DECISION OR TAKE ANY OFFICIAL ACTION WITH RESPECT TO ANY
37 MATTER, INCLUDING DISCUSSING THE MATTER OR VOTING ON IT, WHEN THE MATTER
38 RELATES TO:

39 A. A CONTRACT IN WHICH THE MUNICIPAL OFFICER OR EMPLOYEE OR HIS OR HER
40 SPOUSE HAS AN INTEREST; OR

41 B. AN APPLICATION, PETITION OR REQUEST BY AN APPLICANT IN WHICH THE
42 MUNICIPAL OFFICER OR EMPLOYEE HAS AN INTEREST THAT MUST BE DISCLOSED
43 PURSUANT TO SECTION EIGHT HUNDRED NINE OF THIS ARTICLE.

44 2. THIS SECTION SHALL NOT BE CONSTRUED AS PROHIBITING:

45 A. A MINISTERIAL ACT, WHICH FOR THE PURPOSES OF THIS SECTION SHALL
46 MEAN AN ADMINISTRATIVE ACT CARRIED OUT IN A PRESCRIBED MANNER NOT ALLOW-
47 ING FOR SUBSTANTIAL PERSONAL DISCRETION;

48 B. PARTICIPATION IN ANY OFFICIAL DECISION OR OFFICIAL ACTION TAKEN BY
49 A BOARD OR SIMILAR BODY WHEN A MAJORITY OF THE MEMBERS OF THE BOARD OR
50 BODY WOULD OTHERWISE BE PROHIBITED FROM ACTING BY SUBDIVISION ONE OF
51 THIS SECTION; OR

52 C. PARTICIPATION IN ANY OFFICIAL DECISION OR OFFICIAL ACTION TAKEN BY
53 A MUNICIPAL OFFICER OR EMPLOYEE, INDIVIDUALLY, WHEN THE MATTER CANNOT BE
54 LAWFULLY DELEGATED OR ASSIGNED TO ANOTHER PERSON.

1 3. COMPLIANCE WITH THIS SECTION SHALL NOT CONSTITUTE AN EXCEPTION TO
2 SECTION EIGHT HUNDRED ONE OF THIS ARTICLE, NOR BE CONSTRUED AS CURING A
3 VIOLATION OF THAT SECTION.

4 S 4. Paragraph (a) of subdivision 1 of section 806 of the general
5 municipal law, as amended by chapter 238 of the laws of 2006, is amended
6 to read as follows:

7 (a) The governing body of each county, city, town, village, school
8 district and fire district shall, and the governing body of any other
9 municipality may, by local law, ordinance or resolution, adopt a code of
10 ethics setting forth for the guidance of its officers and employees the
11 standards of conduct reasonably expected of them. Notwithstanding any
12 other provision of this article to the contrary, a fire district code of
13 ethics shall also apply to the volunteer members of the fire district
14 fire department. Codes of ethics shall provide standards for officers
15 and employees with respect to disclosure of interest in legislation
16 before the local governing body, holding of investments in conflict with
17 official duties, private employment in conflict with official duties,
18 future employment, USE OF PUBLIC RESOURCES FOR PERSONAL OR PRIVATE
19 PURPOSES, NEPOTISM, CIRCUMSTANCES REQUIRING RECUSAL AND ABSTENTION, and
20 such other standards relating to the conduct of officers and employees
21 as may be deemed advisable. Such codes may: (I) regulate or prescribe
22 conduct which is not expressly prohibited by this article but may not
23 authorize conduct otherwise prohibited[. Such codes may provide for the
24 prohibition of]; (II) PROHIBIT CONTRACTS OR conduct [or] THAT IS EITHER
25 EXPRESSLY OR BY IMPLICATION PERMITTED BY SECTION EIGHT HUNDRED TWO OR
26 SECTION EIGHT HUNDRED FIVE-A OF THIS ARTICLE; AND (III) PROVIDE FOR THE
27 disclosure of information and the classification of employees or offi-
28 cers. THE GOVERNING BODY OF EACH MUNICIPALITY THAT ADOPTS A CODE OF
29 ETHICS SHALL BIENNIALY REVIEW AND, IF NECESSARY, UPDATE ITS CODE OF
30 ETHICS.

31 S 5. Subdivision 2 of section 806 of the general municipal law, as
32 amended by chapter 238 of the laws of 2006, is amended to read as
33 follows:

34 2. [The] UPON THE ADOPTION OR AMENDMENT OF A CODE OF ETHICS BY A MUNI-
35 CIPALITY, THE chief executive officer of [a] THE municipality [adopting
36 a code of ethics] shall cause a copy [thereof] OF SUCH CODE OR AMENDMENT
37 to be distributed PROMPTLY to every officer and employee of his OR HER
38 municipality AND TO THE BOARD OF ETHICS FOR THE MUNICIPALITY. [The] IN
39 ADDITION, SUCH CHIEF EXECUTIVE OFFICER SHALL CAUSE A COMPLETE AND
40 CURRENT COPY OF THE MUNICIPALITY'S CODE OF ETHICS TO BE DISTRIBUTED (A)
41 TO EVERY PERSON WHO IS ELECTED OR APPOINTED TO SERVE AS AN OFFICER OR
42 EMPLOYEE OF THE MUNICIPALITY PROMPTLY FOLLOWING SUCH PERSON'S ELECTION
43 OR APPOINTMENT, AND (B) TO ALL THE OFFICERS AND EMPLOYEES OF THE MUNICI-
44 PALITY AT LEAST ONCE EVERY FIVE YEARS. EVERY MUNICIPAL OFFICER AND
45 EMPLOYEE RECEIVING A COPY OF A CODE OF ETHICS OR AMENDMENT THERETO SHALL
46 ACKNOWLEDGE PROMPTLY IN WRITING THAT HE OR SHE HAS RECEIVED AND READ THE
47 CODE OF ETHICS OR AMENDMENT. THE BOARD OF fire [district] commissioners
48 OF A FIRE DISTRICT shall ALSO cause a copy of the fire district's code
49 of ethics, INCLUDING ANY AMENDMENTS THERETO, to be posted publicly and
50 conspicuously in each building under such district's control. Failure
51 to distribute any such copy or failure of any officer or employee to
52 receive such copy shall have no effect on the duty of compliance with
53 such code, nor the enforcement of provisions thereof.

54 S 6. The opening paragraph and paragraphs (a) and (b) of subdivision 3
55 of section 806 of the general municipal law, as amended by chapter 813
56 of the laws of 1987, are amended to read as follows:

1 [Until January first, nineteen hundred ninety-one, the] THE clerk of
2 each municipality [shall file in the office of the state comptroller and
3 on or after January first, nineteen hundred ninety-one, the clerk of
4 each municipality and of each political subdivision, as defined in
5 section eight hundred ten of this article, shall file with the temporary
6 state commission on local government ethics established by section eight
7 hundred thirteen of this article, if such temporary state commission be
8 in existence, and in all events] AND OF EACH POLITICAL SUBDIVISION, AS
9 DEFINED IN SECTION EIGHT HUNDRED TEN OF THIS ARTICLE, shall maintain as
10 a record subject to public inspection:

11 (a) a copy of [any] THE MUNICIPALITY'S OR POLITICAL SUBDIVISION'S code
12 of ethics or any amendments to any code of ethics [adopted within thirty
13 days after the adoption of such code or such amendment],

14 (b) a statement that such municipality or political subdivision has
15 established a board of ethics, in accordance with section eight hundred
16 eight OF THIS ARTICLE and/or pursuant to other law, charter, code, local
17 law, ordinance or resolution, and the composition of such board, [within
18 thirty days after the establishment of such board.] AND

19 S 7. Paragraphs (d) and (e) of subdivision 3 of section 806 of the
20 general municipal law are REPEALED.

21 S 8. Section 808 of the general municipal law, as amended by chapter
22 1019 of the laws of 1970 and subdivision 5 as added by chapter 813 of
23 the laws of 1987, is amended to read as follows:

24 S 808. Boards of ethics. 1. [The governing body of any county may
25 establish a county board of ethics and appropriate moneys for mainte-
26 nance and personal services in connection therewith. The members of such
27 board of ethics shall be appointed by such governing body except in the
28 case of a county operating under an optional or alternative form of
29 county government or county charter, in which case the members shall be
30 appointed by the county executive or county manager, as the case may be,
31 subject to confirmation by such governing body. Such board of ethics
32 shall consist of at least three members, a majority of whom shall not be
33 officers or employees of such county or municipalities wholly or
34 partially located in such county and at least one of whom shall be an
35 elected or appointed officer or employee of the county or a municipality
36 located within such county. The members of such board shall receive no
37 salary or compensation for their services as members of such board and
38 shall serve at the pleasure of the appointing authority.] (A) THE
39 GOVERNING BODY OF EVERY COUNTY SHALL ESTABLISH A BOARD OF ETHICS, THE
40 GOVERNING BODY OF EVERY CITY, TOWN AND VILLAGE HAVING A POPULATION OF
41 FIFTY THOUSAND OR MORE SHALL ESTABLISH A BOARD OF ETHICS, AND THE
42 GOVERNING BODY OF EVERY BOARD OF COOPERATIVE EDUCATIONAL SERVICES
43 (BOCES) SHALL ESTABLISH A BOARD OF ETHICS. THEREAFTER, THE GOVERNING
44 BODY SHALL APPROPRIATE ANNUALLY SUCH MONEYS AS MAY BE NECESSARY FOR THE
45 BOARD'S CONTRACTUAL AND PERSONAL SERVICE EXPENDITURES. EXCEPT AS
46 PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, SUCH BOARD SHALL HAVE
47 JURISDICTION TO ACT ONLY IN RELATION TO THE OFFICERS AND EMPLOYEES OF
48 THE COUNTY, CITY, TOWN, VILLAGE OR BOCES THAT ESTABLISHED THE BOARD.

49 (B) THE GOVERNING BODY OF EVERY MUNICIPALITY NOT DESCRIBED IN PARA-
50 GRAPH (A) OF THIS SUBDIVISION IS AUTHORIZED, BUT NOT REQUIRED, TO ESTAB-
51 LISH A BOARD OF ETHICS. IF SUCH GOVERNING BODY ESTABLISHES A BOARD OF
52 ETHICS, THE GOVERNING BODY SHALL APPROPRIATE ANNUALLY SUCH MONEYS AS MAY
53 BE NECESSARY FOR THE BOARD'S CONTRACTUAL AND PERSONAL SERVICE EXPENDI-
54 TURES. SUCH BOARD SHALL HAVE JURISDICTION TO ACT ONLY IN RELATION TO
55 THE OFFICERS AND EMPLOYEES OF THE MUNICIPALITY THAT ESTABLISHED THE
56 BOARD.

1 (C) TWO OR MORE MUNICIPALITIES NOT DESCRIBED IN PARAGRAPH (A) OF THIS
2 SUBDIVISION MAY ENTER INTO, AMEND, CANCEL, AND TERMINATE AGREEMENTS FOR
3 THE ESTABLISHMENT OF A COOPERATIVE BOARD OF ETHICS. SUCH AGREEMENTS
4 SHALL BE CONSISTENT WITH THE REQUIREMENTS OF ARTICLE FIVE-G OF THIS
5 CHAPTER, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION INCLUDING THAT (I)
6 THE POWER TO ENTER INTO SUCH AGREEMENTS SHALL EXTEND TO ALL MUNICI-
7 PALITIES AS DEFINED IN THIS ARTICLE, AND SHALL NOT BE LIMITED TO MUNICI-
8 PAL CORPORATIONS AND DISTRICTS AS DEFINED IN ARTICLE FIVE-G OF THIS
9 CHAPTER, AND (II) THE DURATION OF SUCH AGREEMENTS SHALL NOT BE LIMITED
10 TO A MAXIMUM TERM OF FIVE YEARS. FOLLOWING THE ESTABLISHMENT OF A COOP-
11 ERATIVE BOARD OF ETHICS, THE GOVERNING BODIES OF THE MUNICIPALITIES THAT
12 ARE PARTIES TO THE AGREEMENT ESTABLISHING THE BOARD SHALL APPROPRIATE
13 ANNUALLY SUCH MONEYS AS MAY BE NECESSARY FOR THE BOARD'S CONTRACTUAL AND
14 PERSONAL SERVICE EXPENDITURES, IN SUCH AMOUNTS OR PROPORTION AS MAY BE
15 PROVIDED IN THE AGREEMENT. A COOPERATIVE BOARD OF ETHICS SHALL BE THE
16 BOARD OF ETHICS OF EACH MUNICIPALITY THAT IS A PARTY TO THE AGREEMENT
17 ESTABLISHING THE BOARD, AND SHALL HAVE JURISDICTION TO ACT ONLY IN
18 RELATION TO THE OFFICERS OR EMPLOYEES OF SUCH MUNICIPALITIES.

19 (D) IN THE EVENT THAT A MUNICIPALITY DESCRIBED IN PARAGRAPH (B) OF
20 THIS SUBDIVISION DOES NOT ESTABLISH A BOARD OF ETHICS AND IS NOT A PARTY
21 TO AN AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS:

22 (I) IN THE CASE OF A MUNICIPALITY OTHER THAN A SCHOOL DISTRICT, THE
23 BOARD OF ETHICS OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED SHALL
24 SERVE AS THE BOARD OF ETHICS OF SUCH MUNICIPALITY AND HAVE JURISDICTION
25 TO ACT IN RELATION TO THE OFFICERS AND EMPLOYEES OF THAT MUNICIPALITY,
26 PROVIDED, THAT IF SUCH A MUNICIPALITY IS LOCATED IN MORE THAN ONE COUN-
27 TY, THE GOVERNING BOARD OF THE MUNICIPALITY BY RESOLUTION SHALL DESIG-
28 NATE THE BOARD OF ETHICS OF ONE OF THE COUNTIES TO SERVE AS THE BOARD OF
29 ETHICS OF THE MUNICIPALITY;

30 (II) IN THE CASE OF A SCHOOL DISTRICT, OTHER THAN THE CITY SCHOOL
31 DISTRICT OF A CITY HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOU-
32 SAND OR MORE, THE BOARD OF ETHICS ESTABLISHED BY THE BOCES OF THE SUPER-
33 VISORY DISTRICT IN WHICH THE SCHOOL DISTRICT IS LOCATED SHALL SERVE AS
34 THE BOARD OF ETHICS OF SUCH SCHOOL DISTRICT AND HAVE JURISDICTION TO ACT
35 IN RELATION TO THE OFFICERS AND EMPLOYEES OF SUCH SCHOOL DISTRICT; AND

36 (III) IN THE CASE OF A CITY SCHOOL DISTRICT OF A CITY HAVING A POPU-
37 LATION OF ONE HUNDRED TWENTY-FIVE THOUSAND OR MORE, THE BOARD OF ETHICS
38 ESTABLISHED BY THE CITY IN WHICH THE SCHOOL DISTRICT IS LOCATED SHALL
39 SERVE AS THE BOARD OF ETHICS OF SUCH SCHOOL DISTRICT AND HAVE JURISDIC-
40 TION TO ACT IN RELATION TO THE OFFICERS AND EMPLOYEES OF SUCH SCHOOL
41 DISTRICT.

42 (E) THE CHIEF EXECUTIVE OFFICER OF EVERY MUNICIPALITY THAT HAS NOT
43 ESTABLISHED A BOARD OF ETHICS AND IS NOT A PARTY TO AN AGREEMENT ESTAB-
44 LISHING A COOPERATIVE BOARD OF ETHICS, ANNUALLY, WITHIN THIRTY DAYS
45 FOLLOWING THE START OF A MUNICIPALITY'S FISCAL YEAR, SHALL NOTIFY THE
46 APPROPRIATE COUNTY, BOCES OR CITY BOARD OF ETHICS THAT SUCH BOARD SHALL
47 SERVE AS THE BOARD OF ETHICS FOR THE MUNICIPALITY. SUCH NOTICE SHALL BE
48 ACCOMPANIED BY A COMPLETE AND CURRENT COPY OF THE MUNICIPALITY'S CODE OF
49 ETHICS. IF OFFICERS AND EMPLOYEES OF THE MUNICIPALITY ARE SUBJECT TO
50 ANNUAL FINANCIAL DISCLOSURE REQUIREMENTS IMPOSED IN ACCORDANCE WITH THIS
51 ARTICLE, SUCH NOTICE SHALL ALSO BE ACCOMPANIED BY A COMPLETE AND CURRENT
52 COPY OF ALL LOCAL LAWS, ORDINANCES, RESOLUTIONS AND REGULATIONS ADOPTED
53 BY THE MUNICIPALITY RELATING TO THE IMPOSITION, ADMINISTRATION AND
54 ENFORCEMENT OF THE FILING REQUIREMENT. AT THE TIME SUCH NOTICE IS GIVEN,
55 THE CHIEF EXECUTIVE SHALL ALSO CAUSE A COPY OF THE NOTICE TO BE POSTED

1 IN EACH PUBLIC BUILDING UNDER THE JURISDICTION OF THE MUNICIPALITY IN A
2 PLACE CONSPICUOUS TO ITS OFFICERS AND EMPLOYEES.

3 (F) IN THE EVENT THAT A BOARD OF ETHICS ESTABLISHED BY A COUNTY, BOCES
4 OR CITY SERVES AS THE BOARD OF ETHICS FOR ANOTHER MUNICIPALITY, AND SUCH
5 MUNICIPALITY SHALL EITHER ESTABLISH A BOARD OF ETHICS OR BECOME A PARTY
6 TO AN AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS, THE CHIEF
7 EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL NOTIFY THE COUNTY, BOCES OR
8 CITY BOARD OF ETHICS OF THE DATE AS OF WHICH SUCH BOARD SHALL NO LONGER
9 SERVE AS THE BOARD OF ETHICS OF THE MUNICIPALITY. AT THE TIME SUCH
10 NOTICE IS GIVEN, THE CHIEF EXECUTIVE SHALL ALSO CAUSE A COPY OF THE
11 NOTICE TO BE POSTED IN EACH PUBLIC BUILDING UNDER THE JURISDICTION OF
12 THE MUNICIPALITY IN A PLACE CONSPICUOUS TO ITS OFFICERS AND EMPLOYEES.
13 PROMPTLY AFTER THE DATE SPECIFIED IN SUCH NOTICE, THE COUNTY, BOCES OR
14 CITY BOARD OF ETHICS SHALL TRANSFER TO THE MUNICIPAL OR COOPERATIVE
15 BOARD OF ETHICS ALL PENDING MATTERS AND RECORDS RELATING TO THE OFFICERS
16 AND EMPLOYEES OF THE MUNICIPALITY, PROVIDED, HOWEVER, THAT SUCH COUNTY,
17 BOCES, OR CITY BOARD OF ETHICS SHALL HAVE THE DISCRETION TO RETAIN ANY
18 PENDING MATTER AND RECORDS RELATING THERETO UNTIL SUCH TIME AS THE
19 MATTER IS RESOLVED.

20 (G) EVERY BOARD OF ETHICS SHALL CONSIST OF AT LEAST THREE MEMBERS, A
21 MAJORITY OF WHOM SHALL NOT BE MUNICIPAL OFFICERS OR EMPLOYEES. THE
22 MEMBERS OF EVERY BOARD OF ETHICS SHALL SERVE FOR A FIXED TERM OF OFFICE.
23 THE LENGTH OF SUCH TERM OF OFFICE SHALL BE DETERMINED BY THE MUNICIPAL
24 GOVERNING BODY THAT ESTABLISHES THE BOARD OF ETHICS OR SPECIFIED IN THE
25 AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS, PROVIDED, THAT
26 SUCH GOVERNING BODY OR AGREEMENT MAY PROVIDE FOR THE INITIAL APPOINT-
27 MENTS TO THE BOARD TO BE MADE FOR STAGGERED TERMS. APPOINTMENTS TO THE
28 BOARD SHALL BE MADE AS FOLLOWS:

29 (I) THE MEMBERS OF A COUNTY BOARD OF ETHICS SHALL BE APPOINTED BY THE
30 GOVERNING BODY OF THE COUNTY EXCEPT IN THE CASE OF A COUNTY OPERATING
31 UNDER AN OPTIONAL OR ALTERNATIVE FORM OF COUNTY GOVERNMENT OR COUNTY
32 CHARTER, IN WHICH CASE THE MEMBERS SHALL BE APPOINTED BY THE COUNTY
33 EXECUTIVE, COUNTY MANAGER OR COUNTY ADMINISTRATOR, AS THE CASE MAY BE,
34 SUBJECT TO CONFIRMATION BY SUCH GOVERNING BODY.

35 (II) THE MEMBERS OF A BOARD OF ETHICS ESTABLISHED BY A MUNICIPALITY
36 OTHER THAN A COUNTY SHALL BE APPOINTED BY SUCH PERSON OR BODY AS MAY BE
37 DESIGNATED BY THE GOVERNING BODY OF THE MUNICIPALITY.

38 (III) THE MEMBERS OF A COOPERATIVE BOARD OF ETHICS SHALL BE APPOINTED
39 IN THE MANNER PROVIDED IN THE AGREEMENT ESTABLISHING THE BOARD.

40 (H) THE MEMBERS OF EVERY BOARD OF ETHICS SHALL RECEIVE NO SALARY OR
41 COMPENSATION FOR THEIR SERVICES AS MEMBERS OF SUCH BOARD, BUT WITHIN
42 AMOUNTS APPROPRIATED SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY
43 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES, PROVIDED,
44 THAT THE PROVISIONS OF SECTION SEVENTY-SEVEN-B OF THIS CHAPTER SHALL
45 APPLY TO THE MEMBERS OF A BOARD OF ETHICS.

46 2. [The] EVERY board OF ETHICS shall render advisory opinions to THE
47 officers and employees [of municipalities wholly or partly within the
48 county] UNDER THE BOARD'S JURISDICTION with respect to this article and
49 any code of ethics adopted pursuant hereto. Such advisory opinions
50 shall be rendered pursuant to the written request of any such officer or
51 employee under such rules and regulations as the board may prescribe
52 [and shall have the advice of counsel employed by the board, or if none,
53 the county attorney]. In addition, [it] THE BOARD may make recommenda-
54 tions with respect to the drafting and adoption of a code of ethics or
55 amendments thereto upon the request of the governing body of any munici-
56 pality [in the county] FOR WHICH THE BOARD SERVES AS THE MUNICIPALITY'S

1 BOARD OF ETHICS, AND PERFORM SUCH OTHER FUNCTIONS RELATING TO THE ADMIN-
2 ISTRATION OF THIS ARTICLE AS MAY BE AUTHORIZED BY THE GOVERNING BODY OR
3 AGREEMENT ESTABLISHING THE BOARD INCLUDING, BUT NOT LIMITED TO, PROVID-
4 ING ETHICS TRAINING TO THE OFFICERS AND EMPLOYEES UNDER THE BOARD'S
5 JURISDICTION.

6 2-A. (A) NOTWITHSTANDING ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE
7 OR RESOLUTION TO THE CONTRARY, EVERY BOARD OF ETHICS SHALL HAVE THE
8 POWER TO INVESTIGATE POTENTIAL VIOLATIONS OF THIS ARTICLE AND A CODE OF
9 ETHICS ADOPTED PURSUANT TO THIS ARTICLE INVOLVING THE MUNICIPAL OFFICERS
10 AND EMPLOYEES UNDER THE BOARD'S JURISDICTION, PROVIDED, HOWEVER, THAT
11 THIS SUBDIVISION SHALL NOT APPLY TO A JUDGE OR JUSTICE OF THE UNIFIED
12 COURT SYSTEM. THE BOARD MAY INITIATE SUCH AN INVESTIGATION EITHER UPON
13 ITS OWN MOTION OR UPON RECEIPT OF A SWORN COMPLAINT ALLEGING SUCH A
14 VIOLATION.

15 (B) UPON INITIATING SUCH AN INVESTIGATION, THE BOARD SHALL PROVIDE TO
16 THE MUNICIPAL OFFICER OR EMPLOYEE WHO IS THE SUBJECT OF THE INVESTI-
17 GATION WRITTEN NOTICE DESCRIBING THE POTENTIAL VIOLATION, AND PROVIDE
18 THE PERSON WITH AT LEAST A FIFTEEN DAY PERIOD TO SUBMIT A WRITTEN
19 RESPONSE SETTING FORTH INFORMATION RELATING TO THE ACTIVITIES CITED AS
20 THE POTENTIAL VIOLATION. THE BOARD MAY ALSO OBTAIN ADDITIONAL INFORMA-
21 TION RELATING TO THE POTENTIAL VIOLATION FROM SUCH OTHER SOURCES AS IT
22 DEEMS APPROPRIATE.

23 (C) IF AT ANY TIME DURING AN INVESTIGATION, THE BOARD DETERMINES THAT
24 THERE HAS BEEN NO VIOLATION OF THIS ARTICLE OR A CODE OF ETHICS, THE
25 BOARD SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH DETERMINATION TO THE
26 MUNICIPAL OFFICER OR EMPLOYEE WHO WAS THE SUBJECT OF THE INVESTIGATION
27 AND THE COMPLAINANT, IF ANY. IN SUCH CASE, ALL DOCUMENTS AND RECORDS
28 RELATING TO PROCEEDINGS CONDUCTED PURSUANT TO THIS SUBDIVISION SHALL BE
29 CONFIDENTIAL.

30 (D) AT ANY TIME DURING AN INVESTIGATION, THE BOARD MAY MAKE A PRELIMI-
31 NARY DETERMINATION THAT THERE HAS BEEN A VIOLATION OF THIS ARTICLE OR A
32 VIOLATION OF A CODE OF ETHICS. IN SUCH CASE, THE BOARD SHALL PROVIDE
33 WRITTEN NOTIFICATION OF THE PRELIMINARY DETERMINATION TO THE MUNICIPAL
34 OFFICER OR EMPLOYEE WHO IS THE SUBJECT OF THE INVESTIGATION AND PROVIDE
35 THAT PERSON WITH AN ADDITIONAL OPPORTUNITY TO BE HEARD. THEREAFTER, IF
36 THE BOARD MAKES A FINAL DETERMINATION THAT THERE HAS BEEN A VIOLATION,
37 THE BOARD SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH FINAL DETERMINATION
38 TO THE MUNICIPAL OFFICER OR EMPLOYEE WHO WAS THE SUBJECT OF THE INVESTI-
39 GATION, THE COMPLAINANT, IF ANY, AND THE APPOINTING AUTHORITY FOR SUCH
40 PERSON OR, IF THE PERSON SERVES IN AN ELECTIVE OFFICE, THE GOVERNING
41 BODY OF THE MUNICIPALITY FOR WHICH SUCH PERSON SERVES.

42 (E) IN CASES WHERE THE BOARD FINDS THAT A MUNICIPAL OFFICER OR EMPLOY-
43 EE HAS WILLFULLY AND KNOWINGLY VIOLATED THIS ARTICLE OR A CODE OF
44 ETHICS, THE BOARD MAY: (I) ISSUE A REPRIMAND; (II) ASSESS A CIVIL PENAL-
45 TY ON BEHALF OF THE MUNICIPALITY IN AN AMOUNT NOT TO EXCEED ONE THOUSAND
46 DOLLARS FOR EACH SUCH SPECIFIC VIOLATION; (III) RECOMMEND TO THE
47 APPOINTING AUTHORITY FOR SUCH PERSON, IF ANY, SUSPENSION WITH OR WITHOUT
48 PAY, DEMOTION, TERMINATION OR SUCH OTHER DISCIPLINARY ACTION AS THE
49 BOARD DEEMS APPROPRIATE; AND (IV) IN THE CASE OF A POTENTIAL VIOLATION
50 ENCOMPASSED WITHIN SECTION EIGHT HUNDRED FIVE OF THIS ARTICLE, REFER THE
51 MATTER TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. ASSESSMENT OF A CIVIL
52 PENALTY SHALL BE FINAL UNLESS MODIFIED, SUSPENDED OR VACATED WITHIN
53 THIRTY DAYS OF IMPOSITION, AND UPON BECOMING FINAL SHALL BE SUBJECT TO
54 REVIEW AT THE INSTANCE OF SUCH PERSON IN A PROCEEDING AGAINST THE BOARD
55 BROUGHT PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
56 RULES.

1 (F) EVERY BOARD OF ETHICS SHALL ADOPT RULES TO ENSURE PROCEDURAL DUE
2 PROCESS IN THE CONDUCT OF ADJUDICATORY PROCEEDINGS HELD PURSUANT TO THIS
3 SUBDIVISION.

4 3. [The governing body of any municipality other than a county may
5 establish a local board of ethics and, where such governing body is so
6 authorized, appropriate moneys for maintenance and personal services in
7 connection therewith. A local board shall have all the powers and duties
8 of and shall be governed by the same conditions as a county board of
9 ethics, except that it shall act only with respect to officers and
10 employees of the municipality that has established such board or of its
11 agencies. The members of a local board shall be appointed by such person
12 or body as may be designated by the governing body of the municipality
13 to serve at the pleasure of the appointing authority and such board
14 shall consist of at least three members, a majority of whom are not
15 otherwise officers or employees of such municipality. Such board shall
16 include at least one member who is an elected or appointed municipal
17 officer or employee.

18 4. The county board of ethics shall not act with respect to the offi-
19 cers and employees of any municipality located within such county or
20 agency thereof, where such municipality has established its own board of
21 ethics, except that the local board may at its option refer matters to
22 the county board.

23 5. A] A BOARD OF ETHICS SHALL HAVE THE ADVICE OF COUNSEL EMPLOYED BY
24 THE BOARD OR, IF NONE, THE ATTORNEY FOR THE MUNICIPALITY THAT ESTAB-
25 LISHED THE BOARD OR, IN THE CASE OF A COOPERATIVE BOARD OF ETHICS, SUCH
26 MUNICIPAL ATTORNEY AS MAY BE DESIGNATED IN THE AGREEMENT ESTABLISHING
27 THE COOPERATIVE BOARD OF ETHICS.

28 4. THE board of ethics of a political subdivision (as defined in
29 section eight hundred ten of this article) [and of] AND THE BOARD OF
30 ETHICS OF any other municipality[,], which [is required by local law,
31 ordinance or resolution to be, or which pursuant to legal authority, in
32 practice is, the repository for completed annual statements of financial
33 disclosure shall notify the temporary state commission on local govern-
34 ment ethics if such commission be in existence and if not, shall file a
35 statement with the clerk of its municipality, that it is the authorized
36 repository for completed annual statements of financial disclosure and
37 that on account thereof, such completed statements will be filed with it
38 and not with the commission. Should any local law, ordinance or resol-
39 ution be adopted which provides for the filing of such completed annual
40 statements with the temporary state commission on local government
41 ethics instead of with such board of ethics, such board of ethics shall
42 notify the temporary state commission on local government ethics of that
43 fact] REQUIRES FILING OF ANNUAL STATEMENTS OF FINANCIAL DISCLOSURE
44 PURSUANT TO THIS ARTICLE, SHALL RECEIVE, REVIEW FOR COMPLETENESS, AND
45 SERVE AS REPOSITORY FOR SUCH ANNUAL STATEMENTS AND ENFORCE SUCH FILING
46 REQUIREMENT.

47 5. EACH MEMBER OF EVERY BOARD OF ETHICS SHALL ATTEND AND SUCCESSFULLY
48 COMPLETE A TRAINING COURSE APPROVED BY THE STATE COMPTROLLER WITHIN TWO
49 HUNDRED SEVENTY DAYS OF HIS OR HER APPOINTMENT OR REAPPOINTMENT TO THE
50 BOARD, PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE
51 DEEMED TO REQUIRE A MEMBER OF A BOARD OF ETHICS TO SUCCESSFULLY COMPLETE
52 SUCH TRAINING COURSE MORE THAN ONCE. THE COURSE SHALL CONTAIN TRAINING
53 RELATED TO THE PROVISIONS OF THIS ARTICLE, CODES OF ETHICS, ANNUAL
54 FINANCIAL DISCLOSURE AND DECISIONAL LAW RELATING TO CONFLICTS OF INTER-
55 EST AND ETHICS AND SUCH OTHER TOPICS AS THE COMPTROLLER DEEMS ADVISABLE.
56 WHEN APPROVED IN ADVANCE OF ATTENDANCE BY THE GOVERNING BODY OF THE

1 MUNICIPALITY ESTABLISHING THE BOARD OR IN THE MANNER PROVIDED IN AN
2 AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS, THE ACTUAL AND
3 NECESSARY EXPENSES INCURRED BY A BOARD MEMBER IN SUCCESSFULLY COMPLETING
4 THE TRAINING REQUIRED BY THIS SECTION SHALL BE A CHARGE AGAINST THE
5 MUNICIPALITY OR THE MUNICIPALITIES PARTICIPATING IN THE COOPERATIVE
6 BOARD OF ETHICS.

7 S 9. Subdivision 9 of section 810 of the general municipal law, as
8 added by chapter 813 of the laws of 1987, is amended to read as follows:

9 9. The term "appropriate body" or "appropriate bodies" shall mean[:

10 (a) in the case of any political subdivision which has created or
11 hereafter creates a board of ethics which is in existence at the time an
12 annual statement of financial disclosure is due, and which has been
13 designated by local law, ordinance or resolution to be the repository
14 for such completed statements, such board of ethics;

15 (b) in the case of any political subdivision which has created or
16 hereafter creates a board of ethics which is in existence at the time an
17 annual statement of financial disclosure is due, and which has not been
18 designated by local law, ordinance or resolution to be the repository
19 for such completed statements, the temporary state commission on local
20 government ethics;

21 (c) in the case of any political subdivision for which no board of
22 ethics is in existence at the time an annual statement of financial
23 disclosure is due, the temporary state commission on local government
24 ethics] THE BOARD OF ETHICS OF ANY POLITICAL SUBDIVISION OR
25 MUNICIPALITY.

26 S 10. Paragraphs (c) and (d) of subdivision 1 of section 811 of the
27 general municipal law, as added by chapter 813 of the laws of 1987, are
28 amended to read as follows:

29 (c) The governing body of a political subdivision or any other county,
30 city, town or village which requires any local or municipal officer or
31 employee or any local elected official or any local political party
32 official to complete and file either of such annual statements of finan-
33 cial disclosure shall have, possess, exercise and enjoy all the rights,
34 powers and privileges attendant thereto which are necessary and proper
35 to the enforcement of such requirement, including but not limited to,
36 the promulgation of rules and regulations pursuant to local law, ordi-
37 nance or resolution, which rules or regulations may provide for the
38 public availability of items of information to be contained on such form
39 of statement of financial disclosure, the determination of penalties for
40 violation of such rules or regulations, and such other powers as [are]
41 WERE conferred upon the temporary state commission on local government
42 ethics pursuant to THE FORMER section eight hundred thirteen of this
43 article, AS ADDED BY CHAPTER EIGHT HUNDRED THIRTEEN OF THE LAWS OF NINE-
44 TEEN HUNDRED EIGHTY-SEVEN, as such local governing body determines are
45 warranted under the circumstances existing in its county, city, town or
46 village.

47 (d) The local law, ordinance or resolution, if and when adopted, shall
48 provide for the annual filing of completed statements with [either] the
49 [temporary state commission on local government ethics or with the board
50 of ethics of the political subdivision or other municipality] APPROPRI-
51 ATE BODY, and shall contain the procedure for filing such statements and
52 the date by which such filing shall be required. [If the board of ethics
53 is designated as the appropriate body, then such] SUCH local law, ordi-
54 nance or resolution shall confer upon the [board] appropriate BODY
55 authority to enforce such filing requirement, including the authority to
56 promulgate rules and regulations of the same import as those which the

1 FORMER temporary state commission on local government ethics [enjoys
2 under section eight hundred thirteen of this article] COULD HAVE ADOPTED
3 UNDER FORMER SECTION EIGHT HUNDRED THIRTEEN OF THIS ARTICLE, AS ADDED BY
4 CHAPTER EIGHT HUNDRED THIRTEEN OF THE LAWS OF NINETEEN HUNDRED
5 EIGHTY-SEVEN. Any such local law, ordinance or resolution shall author-
6 ize exceptions with respect to complying with timely filing of such
7 disclosure statements due to justifiable cause or undue hardship. The
8 appropriate body shall prescribe rules and regulations related to such
9 exceptions with respect to extensions and additional periods of time
10 within which to file such statement including the imposition of a time
11 limitation upon such extensions.

12 S 11. Paragraph (a) of subdivision 1 of section 812 of the general
13 municipal law, as added by chapter 813 of the laws of 1987 and the open-
14 ing paragraph as amended by chapter 85 of the laws of 2004, is amended
15 to read as follows:

16 (a) Any political subdivision or other county, city, town or village
17 to which all of the provisions of this section are made applicable,
18 whether as the result of the provisions contained in subdivision two of
19 section eight hundred eleven of this article or as a result of an
20 election to be subject to the provisions of this section as permitted by
21 subdivision two of this section, shall require (i) each of its local
22 elected officials and local officers and employees, (ii) each local
23 political party official and (iii) each candidate for local elected
24 official with respect to such political subdivision, to file an annual
25 statement of financial disclosure containing the information and in the
26 form set forth in subdivision five of this section except that disclo-
27 sure requirements for assessors who are not covered by this article
28 shall be governed by the requirements of section three hundred thirty-
29 six of the real property tax law. Such statement shall be filed on or
30 before the fifteenth day of May with respect to the preceding calendar
31 year, except that:

32 (i) a person who is subject to the reporting requirements of this
33 subdivision and who timely filed with the internal revenue service an
34 application for automatic extension of time in which to file his or her
35 individual income tax return for the immediately preceding calendar or
36 fiscal year shall be required to file such financial disclosure state-
37 ment on or before May fifteenth but may, without being subjected to any
38 civil penalty on account of a deficient statement, indicate with respect
39 to any item of the disclosure statement that information with respect
40 thereto is lacking but will be supplied in a supplementary statement of
41 financial disclosure, which shall be filed on or before the seventh day
42 after the expiration of the period of such automatic extension of time
43 within which to file such individual income tax return, provided that
44 failure to file or to timely file such supplementary statement of finan-
45 cial disclosure or the filing of an incomplete or deficient supplementa-
46 ry statement of financial disclosure shall be subject to the notice and
47 penalty provisions of this section respecting annual statements of
48 financial disclosure as if such supplementary statement were an annual
49 statement;

50 (ii) [a person who is required to file an annual financial disclosure
51 statement with the temporary state commission on local government
52 ethics, and who is granted an additional period of time within which to
53 file such statement due to justifiable cause or undue hardship, in
54 accordance with required rules and regulations on the subject adopted
55 pursuant to paragraph c of subdivision nine of section eight hundred

thirteen of this article, shall file such statement within the additional period of time granted;

(iii)] candidates for local elected official who file designating petitions for nomination at a primary election shall file such statement within seven days after the last day allowed by law for the filing of designating petitions naming them as candidates for the next succeeding primary election;

[(iv)] (III) candidates for independent nomination for local elected official who have not been designated by a party to receive a nomination shall file such statement within seven days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates for local elected official in the next succeeding general or special or village election; and

[(v)] (IV) candidates for local elected official who receive the nomination of a party for a special election or who receive the nomination of a party other than at a primary election (whether or not for an uncontested office) shall file such statement within seven days after the date of the meeting of the party committee at which they are nominated.

S 12. Paragraph (a) of subdivision 3 of section 812 of the general municipal law, as added by chapter 813 of the laws of 1987, is amended to read as follows:

(a) Such local law, ordinance or resolution must provide for the promulgation of a form of an annual statement of financial disclosure described in subdivision one of section eight hundred eleven of this article for use with respect to information the governing body requires to be reported for the calendar year next succeeding the year in which such local law, ordinance or resolution is adopted and for use with respect to information required to be reported for subsequent calendar years; and shall provide for the filing of completed statements with [either] the [temporary state commission on local government ethics or with the board of ethics of the political subdivision or other municipality, as specified in subdivision one of section eight hundred eleven of this article] APPROPRIATE BODY.

S 13. Section 813 of the general municipal law is REPEALED.

S 14. Section 13 of chapter 946 of the laws of 1964 amending the general municipal law and other laws relating to conflicts of interest of municipal officers and employees is amended to read as follows:

S 13. Laws superseded. The provisions of article [eighteen] 18 of the general municipal law, as added by this act, shall supersede any local law, charter, ordinance, resolution, rule or regulation of any municipality to the extent that such local law, charter, ordinance, resolution, rule or regulation is inconsistent with the provisions thereof. No local law, ordinance, resolution, rule or regulation shall modify or dispense with any provision of article [eighteen] 18 of the general municipal law, as added by this act; provided, however, that nothing [herein] contained IN THIS SECTION shall prohibit a code of ethics adopted pursuant thereto from supplementing the provisions of this act OR FROM BEING MORE STRINGENT THAN ARTICLE 18 OF THE GENERAL MUNICIPAL LAW.

S 15. Notwithstanding any general, special or local law to the contrary, the governing body of any municipality which has prior to the effective date of this act: (a) established a board of ethics pursuant to section 808 of the general municipal law; and (b) not established a term of office for the members of such board, shall establish a term of office for the members of such board to commence on a date no later than

1 January 1, 2012 and on such date the positions on such board of ethics
2 shall be deemed vacant.

3 S 16. Notwithstanding any general, special or local law to the contra-
4 ry, any person serving as a member of a board of ethics established
5 pursuant to section 808 of the general municipal law on the effective
6 date of this act shall successfully complete the training course
7 required by subdivision 6 of section 808 of such law within one year of
8 the effective date of this act.

9 S 17. This act shall take effect on the first of January next succeed-
10 ing the date on which it shall have become a law; provided, however,
11 that the provisions of paragraph (d) of subdivision 1 of section 808 of
12 the general municipal law, as added by section eight of this act, shall
13 take effect January 1, 2012.