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I N S E N A T E

May 21, 2010

Introduced by Sens. STEWART-COUSINS, KLEIN, KRUEGER, ONORATO, PERALTA, STAVISKY -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to audits by the state comptroller of certain organizations controlled by local government entities

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

1 Section 1. Section 34 of the general municipal law, as amended by
2 chapter 233 of the laws of 2006, is amended to read as follows:
3 S 34. Powers and duties of examiners. 1. The comptroller and each
4 examiner of municipal affairs shall have power to examine into the
5 financial affairs of every such municipal corporation, industrial devel-
6 opment agency, district, [fire company as defined in section two hundred
7 four-a of this chapter,] agency and activity [and], ANY FIRE COMPANY AS
8 DEFINED IN SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER, AND ANY OTHER
9 ORGANIZATION, EXCEPT A PUBLIC CORPORATION, THAT IS DIRECTLY OR INDIRECT-
10 LY CONTROLLED BY ONE OR MORE OF ANY SUCH MUNICIPAL CORPORATIONS, INDUS-
11 TRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES. AN ORGANIZATION SHALL
12 BE DEEMED UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPORATIONS,
13 INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES WHEN, AMONG OTHER
14 CIRCUMSTANCES, THE LAW OR DOCUMENTS ESTABLISHING THE ORGANIZATION'S
15 INTERNAL GOVERNANCE PROVIDE FOR ONE OR MORE OFFICERS OR EMPLOYEES OF ANY
16 SUCH MUNICIPAL CORPORATION, INDUSTRIAL DEVELOPMENT AGENCY, DISTRICT OR
17 AGENCY, ACTING IN THEIR OFFICIAL CAPACITIES, TO: (A) SELECT A MAJORITY
18 OF A QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY OR THE
19 ORGANIZATION'S CHIEF EXECUTIVE OFFICER; (B) CONSTITUTE A MAJORITY OF THE
20 VOTING STRENGTH THAT SELECTS EITHER A MAJORITY OF A QUORUM OF THE ORGAN-
21 IZATION'S HIGHEST POLICY-MAKING BODY OR THE ORGANIZATION'S CHIEF EXECU-
22 TIVE OFFICER; OR (C) SERVE EX OFFICIO AS EITHER: (I) A MAJORITY OF A
23 QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY; (II) THE ORGAN-
24 IZATION'S CHIEF EXECUTIVE OFFICER; OR (III) A PARTNER IN THE ORGANIZA-
25 TION. AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPO-

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

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1 RATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES SHALL
2 ALSO INCLUDE ANY OTHER ORGANIZATION THAT IS CONTROLLED BY SUCH ORGANIZA-
3 TION.

4 2. IN CONNECTION WITH ANY EXAMINATION AUTHORIZED BY SUBDIVISION ONE OF
5 THIS SECTION, THE COMPTROLLER AND EACH EXAMINER OF MUNICIPAL AFFAIRS
6 SHALL HAVE POWER to administer an oath to any person whose testimony may
7 be required, and to compel the appearance and attendance of such person
8 for the purpose of any such examination and investigation, and the
9 production of books and papers. In the case of a municipal corporation,
10 industrial development agency, or school district, no such person shall
11 be compelled to appear or be examined elsewhere than within such municipi-
12 pal corporation, industrial development agency, or school district. In
13 the case of any district other than a school district, no such person
14 may be compelled to appear or be examined elsewhere than within the town
15 or one of the towns in which such district or portion thereof is
16 located. In the case of an urban renewal agency, no such person shall be
17 compelled to appear or be examined outside the municipal corporation
18 wherein such agency is established. In the case of a fire company, no
19 such person shall be compelled to appear or be examined outside the area
20 served by the company. In the case of an activity, no such person shall
21 be compelled to appear outside the area served by the activity. IN THE
22 CASE OF AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL
23 CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES, NO
24 SUCH PERSON SHALL BE COMPELLED TO APPEAR OR TO BE EXAMINED OUTSIDE THE
25 COUNTY IN WHICH THE ORGANIZATION HAS ITS PRINCIPAL HEADQUARTERS. Willful
26 false swearing in such examination shall be perjury and shall be punish-
27 able as such.

28 S 2. This act shall take effect immediately.