

590--A

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

---

Introduced by Sens. BRESLIN, HUNTLEY, KRUEGER, OPPENHEIMER, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law and the legislative law, in relation to the receipt of monies by members of the legislature for purposes of legal defense

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

1     Section 1. The public officers law is amended by adding a new section  
2     77-b to read as follows:  
3     S 77-B. DISCLOSURE OF SPECIAL DEFENSE FUNDS RECEIVED BY MEMBERS OF THE  
4     LEGISLATURE. 1. CONTRIBUTIONS MADE BY ANY PERSON, FIRM, ASSOCIATION OR  
5     CORPORATION TO A MEMBER OF THE STATE LEGISLATURE WHICH ARE INTENDED TO  
6     BE USED BY SUCH MEMBER, OR ON BEHALF OF SUCH MEMBER, FOR THE PAYMENT OF  
7     LEGAL SERVICES AND OTHER CHARGES IN CONNECTION WITH THE LEGAL DEFENSE OF  
8     SUCH MEMBER IN ANY PAST OR PENDING CIVIL OR CRIMINAL ACTION SHALL BE  
9     SUBJECT TO THE MONETARY LIMITATIONS SET FORTH IN SUBDIVISION ONE OF  
10    SECTION 14-114 OF THE ELECTION LAW. SUCH CONTRIBUTIONS SHALL BE  
11    DISCLOSED ANNUALLY TO THE LEGISLATIVE ETHICS COMMISSION ON SWORN STATE-  
12    MENTS SETTING FORTH THE DOLLAR AMOUNT OF ANY RECEIPT OR CONTRIBUTION OR  
13    THE FAIR MARKET VALUE OF ANY RECEIPT OR CONTRIBUTION WHICH IS OTHER THAN  
14    OF MONEY, THE NAME AND ADDRESS OF THE CONTRIBUTOR OR PERSON FROM WHOM  
15    RECEIVED. ANY STATEMENT REPORTING A LOAN SHALL HAVE ATTACHED TO IT A  
16    COPY OF THE EVIDENCE OF INDEBTEDNESS. THE LEGISLATIVE ETHICS COMMISSION  
17    SHALL PROVIDE FORMS SUITABLE FOR SUCH STATEMENTS.  
18    2. FOR THE PURPOSES OF THIS SECTION, "CONTRIBUTION" MEANS ANY GIFT,  
19    SUBSCRIPTION, ADVANCE, OR DEPOSIT OF MONEY OR ANY THING OF VALUE, MADE  
20    IN CONNECTION WITH THE LEGAL DEFENSE OF A MEMBER OF THE LEGISLATURE IN

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

LBD05208-03-1

1 CONNECTION WITH A CIVIL OR CRIMINAL ACTION AGAINST SUCH MEMBER, INCLUD-  
2 ING BUT NOT LIMITED TO COMPENSATION FOR THE PERSONAL SERVICES OF ANY  
3 INDIVIDUAL WHICH ARE RENDERED IN CONNECTION WITH SUCH LEGAL DEFENSE  
4 WITHOUT CHARGE. A LOAN MADE TO A MEMBER OF THE LEGISLATURE BY ANY  
5 PERSON, FIRM, ASSOCIATION OR CORPORATION OTHER THAN IN THE REGULAR  
6 COURSE OF THE LENDER'S BUSINESS SHALL BE DEEMED A CONTRIBUTION FOR THE  
7 PURPOSES OF THIS SECTION. THE PROVISIONS OF THIS SECTION SHALL APPLY TO  
8 CONTRIBUTIONS MADE ON AND AFTER JANUARY FIRST, TWO THOUSAND TWELVE.

9 3. ANY ANONYMOUS CONTRIBUTIONS RECEIVED BY A MEMBER OF THE LEGISLATURE  
10 FOR THE LEGAL DEFENSE OF SUCH MEMBER SHALL NOT BE USED OR EXPENDED, BUT  
11 THE SAME SHALL BE PAID OVER TO THE COMPTROLLER OF THE STATE OF NEW YORK  
12 FOR DEPOSIT IN THE GENERAL TREASURY OF THE STATE UNLESS, BEFORE THE DATE  
13 FOR FILING STATEMENTS AND REPORTS AS HEREIN PROVIDED, THE IDENTITY OF  
14 SUCH ANONYMOUS CONTRIBUTOR SHALL BECOME KNOWN, AND, IN SUCH EVENT THE  
15 ANONYMOUS CONTRIBUTION SHALL BE RETURNED TO SUCH CONTRIBUTOR OR RETAINED  
16 AND PROPERLY REPORTED AS A CONTRIBUTION FROM SUCH CONTRIBUTOR.

17 S 2. Paragraph (vii) of subdivision (j) of section 1-c of the legisla-  
18 tive law, as amended by section 1 of part D of chapter 399 of the laws  
19 of 2011, is amended to read as follows:

20 (vii) gifts from a family member, member of the same household, or  
21 person with a personal relationship with the public official, including  
22 invitations to attend personal or family social events, when the circum-  
23 stances establish that it is the family, household, or personal  
24 relationship that is the primary motivating factor; in determining moti-  
25 vation, the following factors shall be among those considered: (A) the  
26 history and nature of the relationship between the donor and the recipi-  
27 ent, including whether or not items have previously been exchanged; (B)  
28 whether the item was purchased by the donor; and (C) whether or not the  
29 donor at the same time gave similar items to other public officials; the  
30 transfer shall not be considered to be motivated by a family, household,  
31 or personal relationship if the donor seeks to charge or deduct the  
32 value of such item as a business expense or seeks reimbursement from a  
33 client. CONTRIBUTIONS MADE BY ANY INDIVIDUAL OR ENTITY REQUIRED TO BE  
34 LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO THIS ARTICLE TO A  
35 MEMBER OF THE STATE LEGISLATURE WHICH ARE INTENDED TO BE USED BY SUCH  
36 MEMBER OR ON BEHALF OF SUCH MEMBER FOR THE PAYMENT OF LEGAL SERVICES AND  
37 OTHER CHARGES IN CONNECTION WITH THE LEGAL DEFENSE OF SUCH MEMBER IN ANY  
38 PAST OR PENDING CIVIL OR CRIMINAL ACTION SHALL BE CONSIDERED GIFTS UNDER  
39 THIS ARTICLE;

40 S 3. Subdivision 13 of section 80 of the legislative law, as amended  
41 by section 9 of part A of chapter 399 of the laws of 2011, is amended to  
42 read as follows:

43 13. Within one hundred twenty days of the effective date of this  
44 subdivision, the commission shall create and thereafter maintain a  
45 publicly accessible website which shall set forth the procedure for  
46 filing a complaint with the joint commission on public ethics, and which  
47 shall contain DISCLOSURE FORMS FILED PURSUANT TO SECTION SEVENTY-SEVEN-B  
48 OF THE PUBLIC OFFICERS LAW AND any other records or information which  
49 the commission determines to be appropriate.

50 S 4. This act shall take effect immediately provided that section one  
51 of this act shall be deemed to have been in full force and effect on and  
52 after January 1, 2012.