

573--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the legislative law and the public officers law, in relation to state legislative ethics

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "ethics in state government now act".
3 S 2. Section 80 of the legislative law, as amended by chapter 14 of
4 the laws of 2007, is amended to read as follows:
5 S 80. Legislative ethics commission; functions, powers and duties;
6 review of financial disclosure statements; advisory opinions; investi-
7 gation and enforcement.
8 1. There is established a legislative ethics commission which shall
9 consist of nine members. Four members shall be [members of the legisla-
10 ture and shall be] appointed as follows: one by the temporary president
11 of the senate, one by the speaker of the assembly, one by the minority
12 leader of the senate and one by the minority leader of the assembly.
13 [The remaining five] SUCH FOUR members shall not be present or former
14 members of the legislature, candidates for member of the legislature,
15 employees of the legislature, political party chairmen as defined in
16 paragraph (k) of subdivision one of section seventy-three of the public
17 officers law, or lobbyists, as defined in section one-c of this chapter,
18 or persons who have been employees of the legislature, political party
19 chairmen as defined in paragraph (k) of subdivision one of section
20 seventy-three of the public officers law, or lobbyists, as defined in
21 section one-c of this chapter in the previous five years[, and shall be
22 appointed as follows: one by the temporary president of the senate, one

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

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1 by the speaker of the assembly, one by the minority leader of the
2 senate, one by the minority leader of the assembly, and one]. THE LEGIS-
3 LATIVE LEADERS SHALL APPOINT INDIVIDUALS WHO ARE QUALIFIED TO SERVE ON
4 THE COMMISSION BY VIRTUE OF THEIR EDUCATION, TRAINING OR EXPERIENCE IN
5 ONE OR MORE OF THE FOLLOWING DISCIPLINES: LEGISLATIVE, JUDICIAL, ADMIN-
6 ISTRATIVE OR PROFESSIONAL ETHICS; BUSINESS; LAW; AND/OR ACADEMICS. FIVE
7 MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS FOLLOWS: ONE BY THE
8 GOVERNOR, ONE BY THE ATTORNEY GENERAL, ONE BY THE STATE COMPTROLLER, ONE
9 BY THE CHIEF JUDGE OF THE COURT OF APPEALS AND ONE BY THE CHAIRMAN OF
10 THE COMMISSION ON PUBLIC INTEGRITY. THE CHAIR OF THE LEGISLATIVE ETHICS
11 COMMISSION SHALL BE jointly DESIGNATED by the speaker of the assembly
12 and [majority leader] THE TEMPORARY PRESIDENT of the senate FROM AMONGST
13 THE FIVE MEMBERS APPOINTED BY THE GOVERNOR, ATTORNEY GENERAL, STATE
14 COMPTROLLER, CHIEF JUDGE OF THE COURT OF APPEALS AND CHAIRMAN OF THE
15 COMMISSION ON PUBLIC INTEGRITY. NO MORE THAN FIVE MEMBERS OF THE COMMIS-
16 SION SHALL BELONG TO THE SAME POLITICAL PARTY. The commission shall
17 serve as described in this section and have and exercise the powers and
18 duties set forth in this section only with respect to members of the
19 legislature, legislative employees as defined in section seventy-three
20 of the public officers law, candidates for member of the legislature and
21 individuals who have formerly held such positions or who have formerly
22 been such candidates.

23 2. [Members of the legislature who serve on the commission shall each
24 have a two year term concurrent with their legislative terms of office.]
25 The members of the commission [who are not members of the legislature
26 and] who are first appointed, AFTER THE EFFECTIVE DATE OF THE CHAPTER OF
27 THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SECTION, by the
28 temporary president of the senate, speaker of the assembly, minority
29 leader of the senate, and minority leader of the assembly shall serve
30 one, two, three and four year terms, respectively. THE MEMBERS OF THE
31 COMMISSION WHO ARE FIRST APPOINTED, AFTER THE EFFECTIVE DATE OF THE
32 CHAPTER OF THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SECTION,
33 BY THE GOVERNOR, ATTORNEY GENERAL, STATE COMPTROLLER, CHIEF JUDGE OF THE
34 COURT OF APPEALS AND THE CHAIRMAN OF THE COMMISSION ON PUBLIC INTEGRITY
35 SHALL SERVE TERMS OF FOUR YEARS. The [member] CHAIR of the commission
36 [first appointed] DESIGNATED jointly by the TEMPORARY president of the
37 senate and speaker of the assembly shall serve a four year term AS
38 CHAIR. Each member of the commission [who is not a member of the legis-
39 lature] shall be appointed thereafter for a term of four years.

40 3. [The temporary president of the senate and the speaker of the
41 assembly shall each designate one member of the commission as a
42 co-chairperson thereof.] The commission shall meet at least bi-monthly
43 and at such additional times as may be called for by the [co-chairper-
44 sons jointly] CHAIR or any five members of the commission.

45 4. Any vacancy occurring on the commission shall be filled within
46 thirty days by the appointing authority.

47 5. Five members of the commission shall constitute a quorum, and the
48 commission shall have power to act by majority vote of the total number
49 of members of the commission without vacancy.

50 6. The members of the commission shall be reimbursed for reasonable
51 expenses incurred in the performance of their official duties.

52 7. The commission shall:

53 a. Appoint an executive director who shall act in accordance with the
54 policies of the commission;

55 b. Appoint such other staff as are necessary to assist it to carry out
56 its duties under this section;

1 c. Adopt, amend, and rescind policies, rules and regulations consist-
2 ent with this section to govern procedures of the commission which shall
3 [not] be subject to the promulgation and hearing requirements of the
4 state administrative procedure act;

5 d. Administer the provisions of this section;

6 e. Specify the procedures whereby a person who is required to file an
7 annual financial disclosure statement with the commission may request an
8 additional period of time within which to file such statement, due to
9 justifiable cause or undue hardship; such rules or regulations shall
10 provide for a date beyond which in all cases of justifiable cause or
11 undue hardship no further extension of time will be granted;

12 f. Promulgate guidelines to assist appointing authorities in determin-
13 ing which persons hold policy-making positions for purposes of section
14 seventy-three-a of the public officers law and may promulgate guidelines
15 to assist firms, associations and corporations in separating affected
16 persons from net revenues for purposes of subdivision ten of section
17 seventy-three of the public officers law, and promulgate guidelines to
18 assist any firm, association or corporation in which any present or
19 former statewide elected official, state officer or employee, member of
20 the legislature or legislative employee, or political party chairman is
21 a member, associate, retired member, of counsel or shareholder, in
22 complying with the provisions of subdivision ten of section seventy-
23 three of the public officers law with respect to the separation of such
24 present or former statewide elected official, state officer or employee,
25 member of the legislature or legislative employee, or political party
26 chairman from the net revenues of the firm, association or corporation.
27 Such firm, association or corporation shall not be required to adopt the
28 procedures contained in the guidelines to establish compliance with
29 subdivision ten of section seventy-three of the public officers law, but
30 if such firm, association or corporation does adopt such procedures, it
31 shall be deemed to be in compliance with such subdivision ten;

32 g. Make available forms for financial disclosure statements required
33 to be filed pursuant to subdivision six of section seventy-three and
34 section seventy-three-a of the public officers law;

35 h. Review financial disclosure statements in accordance with the
36 provisions of this section, provided however, that the commission may
37 delegate all or part of the review function relating to financial
38 disclosure statements filed by MEMBERS OF THE LEGISLATURE AND legisla-
39 tive employees pursuant to sections seventy-three and seventy-three-a of
40 the public officers law to the executive director who shall be responsi-
41 ble for completing staff review of such statements in a manner consist-
42 ent with the terms of the commission's delegation;

43 i. Permit [any person] A MEMBER OF THE LEGISLATURE, A CANDIDATE FOR
44 MEMBER OF THE LEGISLATURE OR A LEGISLATIVE EMPLOYEE required to file a
45 financial disclosure statement to request the commission to delete from
46 the copy thereof made available for public inspection and copying [one
47 or more items] OF ALL OR A PORTION OF AN ITEM of information INCLUDED IN
48 SUBPARAGRAPH (C) OF PARAGRAPH EIGHT OF SUCH FINANCIAL DISCLOSURE STATE-
49 MENT, which may be deleted by the commission upon a finding that the
50 information which would otherwise be required to be disclosed will have
51 no material bearing on the discharge of the reporting person's official
52 duties, OR WHICH WOULD CAUSE A VIOLATION OF THE CODE OF PROFESSIONAL
53 ETHICS OF THE PROFESSION IN WHICH THE APPLICANT IS ENGAGED. THE COMMIS-
54 SION IN GRANTING DELETIONS PURSUANT TO THIS PARAGRAPH, SHALL CONSIDER
55 EACH ITEM OF INFORMATION REQUESTED TO BE DELETED ON AN INDIVIDUAL BASIS,

1 AND SHALL LIMIT ANY DELETIONS PURSUANT TO THIS PARAGRAPH TO THE GREATEST
2 EXTENT THAT IS NECESSARY TO SUPPORT THE GROUNDS FOR THE DELETION;

3 j. [Permit any person required to file a financial disclosure state-
4 ment to request an exemption from any requirement to report one or more
5 items of information which pertain to such person's spouse or unemanci-
6 pated children which item or items may be exempted by the commission
7 upon a finding that the reporting individual's spouse, on his or her own
8 behalf or on behalf of an unemancipated child, objects to providing the
9 information necessary to make such disclosure and that the information
10 which would otherwise be required to be reported will have no material
11 bearing on the discharge of the reporting person's official duties;

12 k.] Advise and assist the legislature in establishing rules and regu-
13 lations relating to possible conflicts between private interests and
14 official duties of present members of the legislature and legislative
15 employees;

16 [l.] K. Receive and act PURSUANT TO ARTICLE THREE OF THE STATE ADMIN-
17 ISTRATIVE PROCEDURE ACT on complaints regarding persons subject to its
18 jurisdiction alleging a possible violation of section seventy-three,
19 seventy-three-a or seventy-four of the public officers law, and conduct
20 such investigations and proceedings as are authorized and necessary to
21 carry out the provisions of this section. In connection with such inves-
22 tigation, the commission may administer oaths or affirmations, subpoena
23 witnesses, compel their attendance and require the production of any
24 books or records which it may deem relevant or material;

25 [m.] L. Accept and act upon, as if it were a sworn complaint, any
26 referral from another state oversight body indicating that a violation
27 of section seventy-three, SEVENTY-THREE-A or seventy-four of the public
28 officers law may have occurred involving persons subject to the juris-
29 diction of the commission;

30 [n.] M. Upon written request from any person who is subject to the
31 jurisdiction of the commission and the requirements of sections seven-
32 ty-three, seventy-three-a and seventy-four of the public officers law,
33 render formal advisory opinions on the requirements of said provisions.
34 A formal opinion rendered by the commission, until and unless amended or
35 revoked, shall be binding on the commission in any subsequent proceeding
36 concerning the person who requested the opinion and who acted in good
37 faith, unless material facts were omitted or misstated by the person in
38 the request for an opinion. Such opinion may also be relied upon by such
39 person, and may be introduced and shall be a defense in any criminal or
40 civil action;

41 [o.] N. Issue and publish generic advisory opinions covering questions
42 frequently posed to the commission, or questions common to a class or
43 defined category of persons, or that will tend to prevent undue repe-
44 tition of requests or undue complication, and which are intended to
45 provide general guidance and information to persons subject to the
46 commission's jurisdiction;

47 [p.] O. Develop educational materials and training with regard to
48 legislative ethics for members of the legislature and legislative
49 employees; and

50 [q.] P. Prepare an annual report to the governor and legislature
51 summarizing the activities of the commission during the previous year
52 and recommending any changes in the laws governing the conduct of
53 persons subject to the jurisdiction of the commission, or the rules,
54 regulations and procedures governing the commission's conduct. Such
55 report shall include: (i) a listing by assigned number of each complaint
56 and referral received which alleged a possible violation within its

jurisdiction, including the current status of each complaint, and (ii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed[, subject to the confidentiality requirements of this section]. Such annual report shall not contain any information for which disclosure is not permitted pursuant to subdivision fourteen of this section.

8. The commission, or the executive director and staff of the commission if responsibility regarding such financial disclosure statements filed by MEMBERS OF THE LEGISLATURE AND legislative employees has been delegated, shall inspect all financial disclosure statements filed with the commission to ascertain whether any person subject to the reporting requirements of subdivision six of section seventy-three or section seventy-three-a of the public officers law has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law. THE COMMISSION, EXECUTIVE DIRECTOR OR STAFF OF THE COMMISSION MAY REEXAMINE ANY PREVIOUSLY SUBMITTED FINANCIAL DISCLOSURE STATEMENT THAT HAS BEEN FILED WITHIN THE PAST FIVE YEARS IF NEW INFORMATION HAS COME TO THE ATTENTION OF THE COMMISSION WHICH MAY REVEAL A POSSIBLE VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

9. If a person required to file a financial disclosure statement with the commission has failed to file a financial disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency: (a) to the reporting person; (b) in the case of a senator, to the temporary president of the senate, and if a member of assembly, to the speaker of the assembly; and (c) in the case of a legislative employee, to the appointing authority for such person and to the temporary president of the senate and/or the speaker of the assembly, as the case may be, who has jurisdiction over such appointing authority. Such notice of delinquency may be sent at any time during the reporting person's service as a member of the legislature or legislative employee or while a candidate for member of the legislature, or within one year after separation from such service or the termination of such candidacy. The jurisdiction of the commission, when acting pursuant to subdivision eleven of this section with respect to financial disclosure, shall continue notwithstanding that the reporting person separates from state service or terminates his or her candidacy, provided the commission notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.

10. a. If a reporting person has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law, or the commission receives a referral from another state oversight body, OR THE COMMISSION RECEIVES OR DISCOVERS INFORMATION AT ANY TIME THAT REVEALS A POSSIBLE VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, or the commission receives a sworn complaint alleging such a violation by a reporting person or a legislative employee subject to the provisions of such laws, or if the commission determines on its own initiative to investigate a possible violation by a reporting person or

1 a legislative employee subject to the provisions of such laws, the
2 commission shall notify the reporting person in writing, describe the
3 possible or alleged violation thereof and provide the person with a
4 fifteen day period in which to submit a written response setting forth
5 information relating to the activities cited as a possible or alleged
6 violation of law. If the commission thereafter makes a determination
7 that further inquiry is justified, it shall give the reporting person an
8 opportunity to be heard. THE COMMISSION SHALL REVIEW AND MAKE AN AFFIR-
9 MATIVE DETERMINATION ON SUCH POSSIBLE VIOLATION WITHIN THIRTY DAYS OF
10 SUCH REPORTING INDIVIDUAL'S WRITTEN RESPONSE. THE COMMISSION MAY EXTEND
11 SUCH THIRTY DAY PERIOD OF TIME ONCE FOR AN ADDITIONAL THIRTY DAYS. The
12 commission shall also inform the reporting individual of its rules
13 regarding the conduct of adjudicatory proceedings and appeals and the
14 due process procedural mechanisms available to such individual. If the
15 commission determines at any stage of the proceeding, that there is no
16 violation or that any potential conflict of interest violation has been
17 rectified, it shall so advise the reporting person and the complainant,
18 if any. All of the foregoing proceedings shall be confidential.

19 b. If the commission determines that there is reasonable cause to
20 believe that a violation has occurred, OR THAT A REQUIRED FINANCIAL
21 DISCLOSURE STATEMENT HAS NOT BEEN FILED ON A TIMELY BASIS AFTER ALL
22 EXTENSIONS TO FILE HAVE BEEN EXHAUSTED OR THAT A FILED FINANCIAL STATE-
23 MENT IS MATERIALLY INCOMPLETE OR INACCURATE, it shall send a notice of
24 reasonable cause: (i) to the reporting person; (ii) to the complainant
25 if any; (iii) in the case of a senator, to the temporary president of
26 the senate, and if a member of the assembly, to the speaker of the
27 assembly; and (iv) in the case of a legislative employee, to the
28 appointing authority for such person and to the temporary president of
29 the senate and/or the speaker of the assembly, as the case may be, who
30 has jurisdiction over such appointing authority.

31 c. The jurisdiction of the commission when acting pursuant to this
32 section shall continue notwithstanding that a member of the legislature
33 or a legislative employee separates from state service, or a candidate
34 for member of the legislature ceases to be a candidate, provided that
35 the commission notifies such individual of the alleged violation of law
36 pursuant to paragraph a of this subdivision within one year from his or
37 her separation from state service or the termination of his or her
38 candidacy. Nothing in this section shall serve to limit the jurisdiction
39 of the commission in enforcement of subdivision eight of section seven-
40 ty-three of the public officers law.

41 11. An individual subject to the jurisdiction of the commission who
42 knowingly and intentionally violates the provisions of subdivisions two
43 through five, seven, eight, twelve, fourteen or fifteen of section
44 seventy-three of the public officers law or a reporting individual who
45 knowingly and wilfully fails to file an annual statement of financial
46 disclosure or who knowingly and wilfully with intent to deceive makes a
47 false statement or gives information which such individual knows to be
48 false on such statement of financial disclosure filed pursuant to
49 section seventy-three-a of the public officers law shall be subject to a
50 civil penalty in an amount not to exceed forty thousand dollars and the
51 value of any gift, compensation or benefit received as a result of such
52 violation. Any such individual who knowingly and intentionally violates
53 the provisions of paragraph A, b, c, d, E, G or i of subdivision three
54 of section seventy-four of the public officers law shall be subject to a
55 civil penalty in an amount not to exceed ten thousand dollars and the
56 value of any gift, compensation or benefit received as a result of such

1 violation. [Any such individual who knowingly and intentionally violates
2 the provisions of paragraph a, e or g of subdivision three of section
3 seventy-four of the public officers law shall be subject to a civil
4 penalty in an amount equal to the value of any gift, compensation or
5 benefit received as a result of such violation.] Assessment of a civil
6 penalty hereunder shall be made by the commission with respect to
7 persons subject to its jurisdiction. In assessing the amount of the
8 civil penalties to be imposed, the commission shall consider the seri-
9 ousness of the violation, the amount of gain to the individual and
10 whether the individual previously had any civil or criminal penalties
11 imposed pursuant to this section, and any other factors the commission
12 deems appropriate. For a violation of this section, other than for
13 conduct which constitutes a violation of subdivision twelve, fourteen or
14 fifteen of section seventy-three or section seventy-four of the public
15 officers law, OR FOR A SECOND OR SUBSEQUENT VIOLATION OF SECTION SEVEN-
16 TY-THREE-A OF THE PUBLIC OFFICERS LAW, the legislative ethics commission
17 may, in lieu of a civil penalty, refer a violation to the appropriate
18 prosecutor and upon such conviction, but only after such referral, such
19 violation shall be punishable as a class A misdemeanor. A civil penalty
20 for false filing may not be imposed hereunder in the event a category of
21 "value" or "amount" reported hereunder is incorrect unless such reported
22 information is falsely understated. [Notwithstanding any other provision
23 of law to the contrary, no other penalty, civil or criminal may be
24 imposed for a failure to file, or for a false filing, of such statement,
25 or a violation of section seventy-three of the public officers law,
26 except that the appointing authority may impose disciplinary action as
27 otherwise provided by law.] The legislative ethics commission shall be
28 deemed to be an agency within the meaning of article three of the state
29 administrative procedure act and shall adopt rules governing the conduct
30 of adjudicatory proceedings and appeals taken pursuant to a proceeding
31 commenced under article seventy-eight of the civil practice law and
32 rules relating to the assessment of the civil penalties herein author-
33 ized [and commission denials of requests for certain deletions or
34 exemptions to be made from a financial disclosure statement as author-
35 ized in paragraph i or paragraph j of subdivision seven of this
36 section]. Such rules[, which shall not be subject to the promulgation
37 and hearing requirements of the state administrative procedure act,]
38 shall provide for due process procedural mechanisms substantially simi-
39 lar to those set forth in such article three but such mechanisms need
40 not be identical in terms or scope. Assessment of a civil penalty or
41 commission denial of such a deletion [or exemption request] shall be
42 final unless modified, suspended or vacated within thirty days of im-
43 position, with respect to the assessment of such penalty, or unless such
44 denial of request is reversed within such time period, and upon becoming
45 final shall be subject to review at the instance of the affected report-
46 ing individuals in a proceeding commenced against the legislative ethics
47 commission, pursuant to article seventy-eight of the civil practice law
48 and rules.

49 12. If the commission has a reasonable basis to believe that any
50 person subject to the jurisdiction of another state oversight body may
51 have violated section seventy-three or seventy-four of the public offi-
52 cers law, section one hundred seven of the civil service law, or article
53 one-A of this chapter, it shall refer such violation to such oversight
54 body unless the commission determines that such a referral would compro-
55 mise the prosecution or confidentiality of its investigations and, if
56 so, shall make such a referral as soon as practicable. The referral by

1 the commission shall include any information relating thereto coming
2 into the custody or under the control of the commission at any time
3 prior or subsequent to the time of the referral.

4 13. A copy of any notice of delinquency or notice of reasonable cause
5 sent pursuant to subdivisions nine and ten of this section shall be
6 included in the reporting person's file and be available for public
7 inspection and copying.

8 14. a. Notwithstanding the provisions of article six of the public
9 officers law, the only records of the commission which shall be avail-
10 able for public inspection and copying are:

11 (1) the information set forth in an annual statement of financial
12 disclosure filed pursuant to section seventy-three-a of the public offi-
13 cers law [except the categories of value or amount which shall be confi-
14 dential, and any other item of information deleted pursuant to paragraph
15 i of subdivision seven of this section];

16 (2) financial disclosure statements filed pursuant to subdivision six
17 of section seventy-three of the public officers law;

18 (3) notices of delinquency sent under subdivision nine of this
19 section;

20 (4) notices of reasonable cause sent under paragraph b of subdivision
21 ten of this section;

22 (5) notices of civil assessment imposed under this section which shall
23 include a description of the nature of the alleged wrongdoing, the
24 procedural history of the complaint, the findings and determinations
25 made by the commission, and any sanction imposed;

26 (6) the terms of any settlement or compromise of a complaint or refer-
27 ral which includes a fine, penalty or other remedy;

28 (7) generic advisory opinions; and

29 (8) all reports required by this section.

30 b. Notwithstanding the provisions of article seven of the public offi-
31 cers law, no meeting or proceeding of the commission shall be open to
32 the public, except if expressly provided otherwise by this section or
33 the commission.

34 15. Within one hundred twenty days of the effective date of this
35 subdivision, the commission shall create and thereafter maintain a
36 publicly accessible website which shall set forth the procedure for
37 filing a complaint with the commission, and which shall contain the
38 documents identified in subdivision fourteen of this section, other than
39 financial disclosure statements, and any other records or information
40 which the commission determines to be appropriate.

41 16. This section shall not revoke or rescind any policies, rules,
42 regulations or advisory opinions issued by the legislative ethics
43 [committee] COMMISSION in effect upon the effective date of this subdi-
44 vision, to the extent that such regulations or opinions are not incon-
45 sistent with any laws of the state of New York. The legislative ethics
46 commission shall undertake a comprehensive review of all such policies,
47 rules, regulations or advisory opinions which will address the consist-
48 ency of such policies, rules, regulations or advisory opinions with the
49 laws of the state of New York. The legislative ethics commission shall,
50 before April first, two thousand eight, report to the governor and
51 legislature regarding such review and shall propose any regulatory
52 changes and issue any advisory opinions necessitated by such review.

53 17. Separability clause. If any part or provision of this section or
54 the application thereof to any person is adjudged by a court of compe-
55 tent jurisdiction to be unconstitutional or otherwise invalid, such
56 judgment shall not affect or impair any other part or provision or the

1 application thereof to any other person, but shall be confined to such
2 part or provision.

3 S 3. Section 73 of the public officers law is amended by adding two
4 new subdivisions 14-a and 14-b to read as follows:

5 14-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOURTEEN OF THIS
6 SECTION, NO MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, AS
7 DEFINED BY PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE-A
8 OF THIS ARTICLE, SHALL PARTICIPATE IN ANY DECISION TO HIRE, PROMOTE,
9 PROCESS EMPLOYMENT PAPERWORK FOR OR HAVE KNOWLEDGE OF THE PROSPECTIVE
10 EMPLOYMENT OR CHANGE OF EMPLOYMENT STATUS OF ANY RELATIVE FOR ANY
11 COMPENSATED POSITION AT, FOR OR WITHIN THE SAME LEGISLATIVE CHAMBER
12 WHICH EMPLOYS SUCH MEMBER OR LEGISLATIVE EMPLOYEE. THE PROVISIONS OF
13 THIS SUBDIVISION SHALL NOT APPLY TO PERSONS TO WHICH PARAGRAPH (B) OF
14 SUBDIVISION FOURTEEN OF THIS SECTION APPLIES.

15 14-B. IN ADDITION TO THE INFORMATION INCLUDED IN THE ANNUAL FINANCIAL
16 STATEMENT OF FINANCIAL DISCLOSURE PROVIDED FOR IN SECTION
17 SEVENTY-THREE-A OF THIS ARTICLE, EVERY MEMBER OF THE LEGISLATURE AND
18 LEGISLATIVE EMPLOYEE SHALL DISCLOSE THE NAMES OF ALL RELATIVES WHO ARE
19 EMPLOYED BY THE LEGISLATURE AND THE DEGREE OF THEIR RELATIONSHIP.

20 S 4. Paragraph 3 of subdivision 3 of section 73-a of the public offi-
21 cers law, as added by chapter 813 of the laws of 1987, the third and
22 fourth undesignated paragraphs as added by chapter 242 of the laws of
23 1989, is amended to read as follows:

24 3. The annual statement of financial disclosure shall contain the
25 information and shall be in the form set forth hereinbelow:

26 ANNUAL STATEMENT OF FINANCIAL DISCLOSURE - (For calendar year _____)

27 1. Name _____
28 2. (a) Title of Position _____
29 (b) Department, Agency or other Governmental Entity _____
30 (c) Address of Present Office _____
31 (d) Office Telephone Number _____
32 3. (a) Marital Status _____. If married, please give spouse's
33 full name including maiden name where applicable.
34 _____ .

35 (b) List the names of all unemancipated children.

36 _____
37 _____
38 _____
39 _____
40 _____

41 Answer each of the following questions completely, with respect to
42 calendar year _____, unless another period or date is otherwise
43 specified. If additional space is needed, attach additional pages.

44 Whenever a "value" or "amount" is required to be reported herein, such
45 value or amount shall be reported as being within one of the following
46 Categories: Category A - under \$5,000; Category B - \$5,000 to under
47 \$20,000; Category C - \$20,000 to under [\$60,000] \$40,000; Category D -
48 [\$60,000] \$40,000 to under [\$100,000] \$60,000; Category E - [\$100,000]
49 \$60,000 to under [\$250,000] \$100,000; [and] Category F - [\$250,000 or
50 over] \$100,000 TO UNDER \$150,000; AND CATEGORY G - \$150,000 OR OVER. A

1 reporting individual shall indicate the Category by letter only;
2 PROVIDED, HOWEVER, THAT, FOR A VALUE OR AMOUNT IN CATEGORY G, THE
3 REPORTING INDIVIDUAL SHALL STATE SUCH VALUE OR AMOUNT ROUNDED TO THE
4 NEAREST TEN THOUSAND DOLLARS.

5 Whenever "income" is required to be reported herein, the term "income"
6 shall mean the aggregate net income before taxes from the source identi-
7 fied.

8 The term "calendar year" shall mean the year ending the December 31st
9 preceding the date of filing of the annual statement.

10 S 5. Paragraph 8 of subdivision 3 of section 73-a of the public offi-
11 cers law is amended by adding two new subparagraphs (c) and (d) to read
12 as follows:

13 (C) IF THE REPORTING INDIVIDUAL IS A MEMBER OF THE LEGISLATURE, A
14 CANDIDATE FOR MEMBER OF THE LEGISLATURE OR A LEGISLATIVE EMPLOYEE, AND
15 PRACTICES LAW, IS LICENSED BY THE DEPARTMENT OF STATE AS A REAL ESTATE
16 BROKER OR AGENT, PROVIDES CONSULTING SERVICES OR IS A LOBBYIST AS
17 DEFINED IN ARTICLE ONE-A OF THE LEGISLATIVE LAW, AND RECEIVED COMPEN-
18 SATION IN EXCESS OF \$1,000 FOR APPEARANCES BEFORE A STATE OR MUNICIPAL
19 AGENCY, OR FROM SOLICITING ANY CONTRACT TO PROVIDE SERVICES OR GOODS TO
20 A STATE OR MUNICIPAL AGENCY, WITH RESPECT TO MATTERS OTHER THAN MINIS-
21 TERIAL MATTERS, OR FROM REPRESENTING A CLIENT WHO IS A LOBBYIST OR
22 EMPLOYS A LOBBYIST, PROVIDE THE NAME AND ADDRESS OF THE CLIENTS, THE
23 NATURE OF THE SERVICES PROVIDED, AND THE CATEGORY OF VALUE.
24 CLIENT ADDRESS NATURE OF SERVICES CATEGORY OF VALUE
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27

28 (D) IF THE REPORTING INDIVIDUAL IS A MEMBER OF THE LEGISLATURE, A
29 CANDIDATE FOR MEMBER OF THE LEGISLATURE OR A LEGISLATIVE EMPLOYEE, AND A
30 MEMBER, EMPLOYEE, RETIRED MEMBER, OF COUNSEL OR SHAREHOLDER OF A FIRM,
31 ASSOCIATION OR CORPORATION THAT PRACTICES LAW, IS LICENSED BY THE
32 DEPARTMENT OF STATE TO PROVIDE REAL ESTATE BROKERAGE SERVICES, PROVIDES
33 CONSULTING SERVICES OR ENGAGES IN LOBBYING PURSUANT TO ARTICLE ONE-A OF
34 THE LEGISLATIVE LAW, WHEN THE REPORTING INDIVIDUAL RECEIVED COMPENSATION
35 IN EXCESS OF \$1,000 FROM SUCH FIRM, ASSOCIATION OR CORPORATION WHEN THE
36 FIRM, ASSOCIATION OR CORPORATION OR AN EMPLOYEE THEREOF APPEARED BEFORE
37 A STATE OR MUNICIPAL AGENCY, OR SOLICITED ANY CONTRACT TO PROVIDE
38 SERVICES OR GOODS TO A STATE OR MUNICIPAL AGENCY, WITH RESPECT TO
39 MATTERS OTHER THAN MINISTERIAL MATTERS, OR FROM REPRESENTING A CLIENT
40 WHO IS A LOBBYIST OR EMPLOYS A LOBBYIST, PROVIDE THE NAME AND ADDRESS OF
41 THE CLIENTS, THE NATURE OF THE SERVICES PROVIDED, AND THE CATEGORY OF
42 VALUE PAID FOR SUCH SERVICES.

43 CLIENT ADDRESS NATURE OF SERVICES CATEGORY OF VALUE
44
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46

47 S 6. Paragraphs a, b, d and g of subdivision 3 of section 74 of the
48 public officers law, paragraphs a, b and g as amended by chapter 1012 of
49 the laws of 1965 and paragraph d as amended by chapter 1 of the laws of
50 2010, are amended to read as follows:

51 a. No officer or employee of a state agency, member of the legislature
52 or legislative employee should accept, NOR RETAIN UPON ACCEPTANCE OF
53 EMPLOYMENT BY THE LEGISLATURE, other employment which [will] MAY REASON-
54 ABLY impair his OR HER independence of judgment in the exercise of his
55 OR HER official duties.

1 b. No officer or employee of a state agency, member of the legislature
2 or legislative employee should accept employment or engage in any busi-
3 ness or professional activity which [will] MAY REASONABLY require him OR
4 HER to disclose confidential information which he OR SHE has gained by
5 reason of his OR HER official position or authority.

6 d. No officer or employee of a state agency, member of the legislature
7 or legislative employee should use or attempt to use his or her official
8 position to secure unwarranted privileges or exemptions for himself or
9 herself, HIS OR HER RELATIVE, AS DEFINED IN PARAGRAPH (M) OF SUBDIVISION
10 ONE OF SECTION SEVENTY-THREE OF THIS ARTICLE, or others, including but
11 not limited to, the misappropriation to himself, herself, HIS OR HER
12 RELATIVE, AS DEFINED IN PARAGRAPH (M) OF SUBDIVISION ONE OF SECTION
13 SEVENTY-THREE OF THIS ARTICLE, or to others of the property, services or
14 other resources of the state for private business or other compensated
15 non-governmental purposes.

16 g. An officer or employee of a state agency, MEMBER OF THE LEGISLATURE
17 OR LEGISLATIVE EMPLOYEE should abstain from making personal investments
18 in enterprises which he OR SHE has reason to believe may be directly
19 involved in decisions to be made by him OR HER or which will otherwise
20 create substantial conflict between his OR HER duty in the public inter-
21 est and his OR HER private interest.

22 S 7. The nine members of the legislative ethics commission holding
23 office immediately prior to the effective date of this act are hereby
24 removed from their positions as such members, and nine new members shall
25 be appointed in accordance with section 80 of the legislative law, as
26 amended by section two of this act.

27 S 8. This act shall take effect on the ninetieth day after it shall
28 have become a law.