

5797

2011-2012 Regular Sessions

I N   S E N A T E

June 16, 2011

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Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public officers law, in relation to the disclosure of agency records; and to amend the education law, in relation to guidelines for foundations of state operated campuses

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

1     Section 1. Subdivision 3 of section 86 of the public officers law, as  
2     added by chapter 933 of the laws of 1977, is amended to read as follows:  
3     3. (A) "Agency" means any state or municipal department, board,  
4     bureau, division, commission, committee, public authority, public corpo-  
5     ration, council, office or other governmental entity performing a  
6     governmental or proprietary function for the state or any one or more  
7     municipalities thereof, except the judiciary or the state legislature.  
8     (B) FOR PURPOSES OF THIS ARTICLE, "AGENCY" SHALL INCLUDE THE RESEARCH  
9     FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK, FOUNDATIONS AND AUXILIA-  
10    RY SERVICE CORPORATIONS ASSOCIATED WITH ANY PUBLIC COLLEGE OR UNIVERSI-  
11    TY, AND NOT-FOR-PROFIT CORPORATIONS AND LIMITED LIABILITY CORPORATIONS  
12    CREATED OR CONTROLLED BY ANY PUBLIC COLLEGE OR UNIVERSITY, AND THE  
13    CORPORATIONS IDENTIFIED IN PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION  
14    FIFTY-THREE-A OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT THE  
15    PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE STATUTORY COLLEGES  
16    AND CONTRACT COLLEGES AT ALFRED AND CORNELL OR ANY ALUMNI ASSOCIATION OR  
17    CLINICAL PRACTICE PLAN ASSOCIATED WITH A PUBLIC COLLEGE OR UNIVERSITY.  
18    S 2. Paragraph (l) of subdivision 2 of section 87 of the public offi-  
19    cers law, as added by section 12 of part II of chapter 59 of the laws of  
20    2010, is amended and two new paragraphs (m) and (n) are added to read as  
21    follows:  
22    (l) are photographs, microphotographs, videotape or other recorded  
23    images produced by a bus lane photo device prepared under authority of  
24    section eleven hundred eleven-c of the vehicle and traffic law[.];

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

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1 (M) ARE RECORDS OF AN AGENCY RELATING TO CHARITABLE DONORS OR PROSPEC-  
2 TIVE DONORS, INCLUDING BUT NOT LIMITED TO THE FUND-RAISING STRATEGIES OF  
3 AGENCIES IDENTIFIED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION  
4 EIGHTY-SIX OF THIS ARTICLE, PROVIDED THAT RECORDS RELATING TO FUND-RAIS-  
5 ING STRATEGIES WOULD, IF DISCLOSED, IMPAIR THE ABILITY OF THOSE AGENCIES  
6 TO ATTRACT OR GAIN DONATIONS, AND PROVIDED FURTHER THAT THE NAME OF ANY  
7 DONOR AND THE AMOUNT OF DONATION MADE BY SUCH DONOR SHALL BE SUBJECT TO  
8 DISCLOSURE IF SUCH DONOR, OR ANY ENTITY IN WHICH SUCH DONOR HAS A  
9 SUBSTANTIAL INTEREST, SEEKS TO TRANSACT BUSINESS, OR DOES TRANSACT BUSI-  
10 NESS, WITH THE AGENCY TO WHICH THE DONATION IS MADE WITHIN THREE YEARS  
11 OF THE DATE OF SUCH DONATION. NOTHING IN THIS SECTION SHALL EXEMPT FROM  
12 DISCLOSURE THE AMOUNT OR VALUE OF AN INDIVIDUAL GIFT, GRANT, DONATION OR  
13 PLEDGE;

14 (N) ARE ACADEMIC OR SCIENTIFIC RESEARCH OR RESEARCH-RELATED RECORDS,  
15 INCLUDING ANY DRAFT, PRELIMINARY OR UNFUNDED GRANT OR CONTRACT DOCUMENT,  
16 WHETHER SPONSORED BY THE AGENCY ITSELF OR IN CONJUNCTION WITH A THIRD  
17 PARTY, OR RECORDS RELATING TO THE AGENCY'S INTELLECTUAL PROPERTY, WHICH,  
18 IF DISCLOSED, WOULD ADVERSELY AFFECT LICENSE, PATENT, COPYRIGHT OR OTHER  
19 RIGHTS OF THE AGENCY. THIS PARAGRAPH SHALL NOT PERMIT AN AGENCY TO WITH-  
20 HOLD RECORDS OR PORTIONS THEREOF PERTAINING TO THE NAME, TITLE, EXPENDI-  
21 TURE, SOURCE OR AMOUNT OF PUBLIC FUNDING RELATING TO SUCH RESEARCH OR  
22 INTELLECTUAL PROPERTY.

23 S 3. The opening paragraph of subdivision 6 of section 355 of the  
24 education law is designated paragraph (a) and a new paragraph (b) is  
25 added to read as follows:

26 (B) THE STATE UNIVERSITY TRUSTEES SHALL ADOPT GUIDELINES FOR FOUNDA-  
27 TIONS OF STATE-OPERATED CAMPUSES THAT REQUIRE EACH FOUNDATION TO ADOPT A  
28 CONFLICT OF INTEREST POLICY APPLICABLE TO SUCH FOUNDATION AND ITS AFFIL-  
29 IATED CORPORATIONS. AMONG OTHER ITEMS, THE STATE UNIVERSITY TRUSTEES'  
30 GUIDELINES SHALL REQUIRE SUCH FOUNDATION POLICIES TO PROVIDE: (I) THAT  
31 SERVICE AS A BOARD MEMBER OR OFFICER THEREOF SHALL NOT BE USED AS A  
32 MEANS FOR PRIVATE BENEFIT OR INUREMENT FOR THE BOARD MEMBER OR OFFICER  
33 OR RELATIVE THEREOF, OR ANY ENTITY IN WHICH THE BOARD MEMBER OR OFFICER,  
34 OR RELATIVE THEREOF, HAS A BUSINESS INTEREST; (II) NO BOARD MEMBER OR  
35 OFFICER WHO IS A VENDOR OF GOODS OR SERVICES TO THE FOUNDATION OR ITS  
36 AFFILIATED CORPORATION, OR HAS A BUSINESS INTEREST IN SUCH VENDOR, OR  
37 WHOSE RELATIVE HAS A BUSINESS INTEREST IN SUCH VENDOR, SHALL VOTE ON, OR  
38 PARTICIPATE IN THE FOUNDATION'S ADMINISTRATION OF, AND TRANSACTION WITH  
39 SUCH VENDOR; AND (III) A BOARD MEMBER OR OFFICER SHALL ADVISE THE CHAIR  
40 OF THE FOUNDATION OR ITS AFFILIATED CORPORATION OF HIS, HER OR A RELA-  
41 TIVE'S BUSINESS INTEREST IN ANY SUCH EXISTING OR PROPOSED VENDOR WITH  
42 THE FOUNDATION OR ITS AFFILIATE. THE STATE UNIVERSITY TRUSTEE'S GUIDE-  
43 LINES SHALL DEFINE THE NATURE OF A BUSINESS INTEREST AND THE CLOSENESS  
44 OF A PERSONAL RELATION THAT BRING A RELATIONSHIP WITHIN THE PURPOSES OF  
45 THIS SECTION.

46 S 4. This act shall take effect January 1, 2012; provided, however,  
47 that the amendments to paragraph (1) of subdivision 2 of section 87 of  
48 the public officers law made by section two of this act shall not affect  
49 the repeal of such paragraph and shall expire and be deemed repealed  
50 therewith; provided further that the amendments to subdivision 6 of  
51 section 355 of the education law made by section three of this act shall  
52 not affect the expiration of such subdivision and shall be deemed to  
53 expire therewith.