

590

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

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
21 CONNECTION WITH A CIVIL OR CRIMINAL ACTION AGAINST SUCH MEMBER, INCLUD-
22 ING BUT NOT LIMITED TO COMPENSATION FOR THE PERSONAL SERVICES OF ANY

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

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1 INDIVIDUAL WHICH ARE RENDERED IN CONNECTION WITH SUCH LEGAL DEFENSE
2 WITHOUT CHARGE. A LOAN MADE TO A MEMBER OF THE LEGISLATURE BY ANY
3 PERSON, FIRM, ASSOCIATION OR CORPORATION OTHER THAN IN THE REGULAR
4 COURSE OF THE LENDER'S BUSINESS SHALL BE DEEMED A CONTRIBUTION FOR THE
5 PURPOSES OF THIS SECTION. THE PROVISIONS OF THIS SECTION SHALL APPLY TO
6 CONTRIBUTIONS MADE ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN.

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

15 S 2. Paragraph (vii) of subdivision (j) of section 1-c of the legisla-
16 tive law, as added by chapter 14 of the laws of 2007, is amended to read
17 as follows:

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

38 S 3. Subdivision 15 of section 80 of the legislative law, as amended
39 by chapter 14 of the laws of 2007, is amended to read as follows:

40 15. Within one hundred twenty days of the effective date of this
41 subdivision, the commission shall create and thereafter maintain a
42 publicly accessible website which shall set forth the procedure for
43 filing a complaint with the commission, and which shall contain the
44 documents identified in subdivision fourteen of this section, other than
45 financial disclosure statements, DISCLOSURE FORMS FILED PURSUANT TO
46 SECTION SEVENTY-SEVEN-B OF THE PUBLIC OFFICERS LAW, and any other
47 records or information which the commission determines to be appropri-
48 ate.

49 S 4. This act shall take effect immediately provided that section one
50 of this act shall be deemed to have been in full force and effect on and
51 after January 1, 2011.