

5973

2013-2014 Regular Sessions

I N S E N A T E

October 29, 2013

Introduced by Sens. LANZA, SAVINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to examination and
inspection by the governor

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

1 Section 1. Section 6 of the executive law, the second undesignated
2 paragraph as added by chapter 198 of the laws of 1957, is amended to
3 read as follows:

4 S 6. Examination and inspection by the governor. 1. (A) The governor
5 is authorized at any time, either in person or by one or more persons
6 appointed by him for the purpose, to examine and investigate the manage-
7 ment and affairs of any department, board, bureau or commission of the
8 state. The governor and the persons so appointed by him are empowered to
9 subpoena and enforce the attendance of witnesses, to administer oaths
10 and examine witnesses under oath and to require the production of any
11 books or papers deemed relevant or material. [Whenever any person so
12 appointed shall not be regularly in the service of the state his]

13 (B) ONCE FORMED, THE CONDUCT OF THOSE PERSONS APPOINTED BY THE GOVER-
14 NOR SHALL BE INDEPENDENT OF THE GOVERNOR, THE GOVERNOR'S EXECUTIVE
15 STAFF, AND THE VARIOUS STATE AGENCIES UNDER THE CONTROL OF THE EXECUTIVE
16 BRANCH.

17 (C) AT THE FIRST FORMAL MEETING OF THE PERSONS APPOINTED, THEY SHALL
18 ESTABLISH RULES AND PROCEDURES NECESSARY TO GOVERN THE EXERCISE OF THE
19 POWERS AND AUTHORITY GIVEN OR GRANTED TO THE PERSONS APPOINTED PURSUANT
20 TO THIS SECTION OR ANY OTHER SECTION OF LAW, INCLUDING RULES DESIGNED TO
21 PROVIDE TRANSPARENCY WHILE PROTECTING THE INTEGRITY OF THE INVESTIGATION
22 AND RIGHTS TO PRIVACY. THESE RULES AND PROCEDURES ARE TO BE MADE PUBLIC
23 BEFORE THE SECOND FORMAL MEETING OF THOSE PERSONS. IN NO EVENT SHALL THE
24 PERSONS APPOINTED ISSUE ANY SUBPOENA, IF SO AUTHORIZED BY THE EXECUTIVE
25 ORDER, PRIOR TO MAKING SUCH RULES AND PROCEDURES PUBLICLY AVAILABLE.

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

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1 2. (A) NO INDIVIDUAL SHALL BE ELIGIBLE FOR APPOINTMENT WHO CURRENTLY
2 OR WITHIN THE LAST THREE YEARS:

3 (I) IS OR HAS BEEN REGISTERED AS A LOBBYIST IN NEW YORK STATE;

4 (II) IS OR HAS BEEN A MEMBER OF THE NEW YORK STATE LEGISLATURE, A
5 STATEWIDE ELECTED OFFICIAL, COMMISSIONER OF AN EXECUTIVE AGENCY
6 APPOINTED BY THE GOVERNOR, OR ANY ELECTED PUBLIC OFFICIAL OF ANY COUNTY,
7 TOWN, VILLAGE OR CITY;

8 (III) IS OR HAS BEEN A POLITICAL PARTY CHAIRPERSON, AS DEFINED IN
9 PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC
10 OFFICERS LAW; OR

11 (IV) IS OR HAS BEEN A TREASURER, CANDIDATE OR AFFILIATED WITH ANY
12 ESTABLISHED CANDIDATE OR PARTY POLITICAL COMMITTEE THAT HAS RECEIVED
13 CONTRIBUTIONS.

14 (B) NO INDIVIDUAL SHALL BE ELIGIBLE FOR APPOINTMENT WHO CURRENTLY OR
15 WITHIN THE LAST YEAR IS OR HAS BEEN A STATE OFFICER OR EMPLOYEE OR
16 LEGISLATIVE EMPLOYEE AS DEFINED IN SECTION SEVENTY-THREE OF THE PUBLIC
17 OFFICERS LAW.

18 3. ANY PERSON APPOINTED BY THE GOVERNOR SHALL HAVE HIS OR HER compen-
19 sation for such services [shall be] fixed by the governor, WITHIN THE
20 AMOUNTS APPROPRIATED THEREFOR and said compensation and all necessary
21 expenses of such examinations and investigations shall be paid from the
22 treasury out of any appropriations made for the SPECIFIC purpose OF A
23 COMMISSION ORGANIZED PURSUANT TO THIS SECTION, upon the order of the
24 governor and the audit and warrant of the comptroller.

25 4. Notwithstanding any inconsistent provision of any general, special
26 or local law, charter, administrative code or other statute, service
27 rendered by a person appointed by the governor pursuant to this section
28 shall not constitute or be deemed state service or re-entry into state
29 service under the civil service law, the retirement and social security
30 law or under any charter, administrative code, or other general, special
31 or local law relating to a state or municipal retirement or pension
32 system so as to suspend, impair or otherwise affect or interfere with
33 the pension or retirement status, rights, privileges and benefits of
34 such person under any such system or to interfere with the right of such
35 person or his beneficiary to receive any pension or annuity benefits or
36 death benefits by reason of the selection of any option under any such
37 system.

38 5. FOR THE PURPOSES OF THIS SECTION, OFFICIAL RECORDS OF ANY PERSONS
39 APPOINTED BY THE GOVERNOR PURSUANT TO THIS SECTION OF LAW SHALL INCLUDE
40 ALL BOOKS, PAPERS, MAPS, PHOTOGRAPHS, OR OTHER DOCUMENTARY MATERIALS,
41 REGARDLESS OF PHYSICAL FORM OR CHARACTERISTICS, MADE OR RECEIVED BY THE
42 APPOINTED PERSONS IN ACCORDANCE WITH THIS SECTION OR IN CONNECTION WITH
43 THE TRANSACTION OF PUBLIC BUSINESS SHALL BE PRESERVED AT THE CONCLUSION
44 OF SUCH INVESTIGATION AND SHALL BE DELIVERED TO AND MAINTAINED BY THE
45 STATE ARCHIVES ESTABLISHED IN ARTICLE FIFTY-SEVEN OF THE ARTS AND
46 CULTURAL AFFAIRS LAW AS EVIDENCE OF THE ORGANIZATION, FUNCTIONS, POLI-
47 CIES, DECISIONS, PROCEDURES, OPERATIONS, OR OTHER ACTIVITIES, OR BECAUSE
48 OF THE INFORMATION CONTAINED THEREIN.

49 S 2. This act shall take effect on the one hundred twentieth day after
50 it shall have become a law.