

STATE OF NEW YORK

6005

2017-2018 Regular Sessions

IN ASSEMBLY

February 21, 2017

Introduced by M. of A. KOLB, PALMESANO, RAIA, STEC -- Multi-Sponsored by
-- M. of A. CROUCH, LOPEZ -- read once and referred to the Committee
on Governmental Operations

AN ACT to amend the legislative law, in relation to prohibiting or
limiting outside income for legislative leaders and committee chairs

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The legislative law is amended by adding a new section 5-b
2 to read as follows:

3 § 5-b. Prohibition on outside earned income for legislative leaders
4 and committee chairpersons. 1. Starting in calendar year two thousand
5 nineteen, a member serving as temporary president of the senate, minori-
6 ty leader of the senate, speaker of the assembly, minority leader of the
7 assembly, or other legislative coalition leader may not have outside
8 earned income.

9 2. Starting in calendar year two thousand nineteen, a member serving
10 as chairperson of any senate or assembly committee may not have outside
11 earned income in any calendar year which exceeds fifteen percent of the
12 gross annual salary of the office of governor.

13 3. a. For the purposes of this section, the term "outside earned
14 income" shall mean any wages, salaries, fees, or any other forms of
15 compensation paid, or to be paid, for services personally rendered.

16 b. For the purposes of this section, the term "outside earned income"
17 does not include:

18 (1) an individual's legislative salary, or any allowances or benefits
19 provided by law;

20 (2) income from pensions and other continuing benefits attributable to
21 previous employment or services;

22 (3) income attributable to service with the military reserves or
23 national guard;

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

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1 (4) income from investment activities, where the member's services are
2 not a material factor in the production of income;

3 (5) income from a trade or business in which the member or their fami-
4 ly holds a controlling interest, where the member's services are not a
5 material factor in the production of income;

6 (6) copyright royalties, fees, and their functional equivalent, from
7 the use or sale of copyright, patent and similar forms of intellectual
8 property rights, when received from established users or purchasers of
9 those rights; and

10 (7) compensation for services personally rendered prior to January
11 first, two thousand nineteen, or prior to being elected or appointed as
12 a legislative leader or committee chairperson.

13 4. a. A member of the legislature who knowingly and willfully violates
14 the provisions of this section shall forfeit his or her leadership posi-
15 tion or chairmanship; and shall be subject to a civil penalty in an
16 amount not to exceed forty thousand dollars, plus the value of any
17 compensation received as a result of such violation. Any such fine
18 levied pursuant to this section shall be paid to the general fund of New
19 York state.

20 b. Assessment of a civil penalty pursuant to this section shall be
21 made by the legislative ethics commission. The legislative ethics
22 commission, acting pursuant to subdivision eleven of section eighty of
23 this chapter, shall, in addition to a civil penalty, refer a violation
24 of this section to the appropriate law enforcement agency upon finding
25 of any other criminal activity.

26 § 2. Paragraph (a) of subdivision 9 of section 80 of the legislative
27 law, as amended by section 9 of part A of chapter 399 of the laws of
28 2011, is amended to read as follows:

29 (a) An individual subject to the jurisdiction of the commission with
30 respect to the imposition of penalties who knowingly and intentionally
31 violates the provisions of subdivisions two through five-a, seven,
32 eight, twelve, fourteen or fifteen of section seventy-three of the
33 public officers law or section five-b of this chapter or a reporting
34 individual who knowingly and wilfully fails to file an annual statement
35 of financial disclosure or who knowingly and wilfully with intent to
36 deceive makes a false statement or gives information which such individ-
37 ual knows to be false on such statement of financial disclosure filed
38 pursuant to section seventy-three-a of the public officers law shall be
39 subject to a civil penalty in an amount not to exceed forty thousand
40 dollars and the value of any gift, compensation or benefit received as a
41 result of such violation. Any such individual who knowingly and inten-
42 tionally violates the provisions of paragraph a, b, c, d, e, g, or i of
43 subdivision three of section seventy-four of the public officers law
44 shall be subject to a civil penalty in an amount not to exceed ten thou-
45 sand dollars and the value of any gift, compensation or benefit received
46 as a result of such violation. Assessment of a civil penalty hereunder
47 shall be made by the commission with respect to persons subject to its
48 jurisdiction. In assessing the amount of the civil penalties to be
49 imposed, the commission shall consider the seriousness of the violation,
50 the amount of gain to the individual and whether the individual previ-
51 ously had any civil or criminal penalties imposed pursuant to this
52 section, and any other factors the commission deems appropriate. For a
53 violation of this section, other than for conduct which constitutes a
54 violation of subdivision twelve, fourteen or fifteen of section seven-
55 ty-three or section seventy-four of the public officers law, the legis-
56 lative ethics commission may, in lieu of or in addition to a civil

1 penalty, refer a violation to the appropriate prosecutor and upon such
2 conviction, but only after such referral, such violation shall be
3 punishable as a class A misdemeanor. Where the commission finds suffi-
4 cient cause, it shall refer such matter to the appropriate prosecutor. A
5 civil penalty for false filing may not be imposed hereunder in the event
6 a category of "value" or "amount" reported hereunder is incorrect unless
7 such reported information is falsely understated. Notwithstanding any
8 other provision of law to the contrary, no other penalty, civil or crim-
9 inal may be imposed for a failure to file, or for a false filing, of
10 such statement, or a violation of subdivision six of section seventy-
11 three of the public officers law, except that the appointing authority
12 may impose disciplinary action as otherwise provided by law. The legis-
13 lative ethics commission shall be deemed to be an agency within the
14 meaning of article three of the state administrative procedure act and
15 shall adopt rules governing the conduct of adjudicatory proceedings and
16 appeals taken pursuant to a proceeding commenced under article seventy-
17 eight of the civil practice law and rules relating to the assessment of
18 the civil penalties herein authorized. Such rules, which shall not be
19 subject to the promulgation and hearing requirements of the state admin-
20 istrative procedure act, shall provide for due process procedural mech-
21 anisms substantially similar to those set forth in such article three
22 but such mechanisms need not be identical in terms or scope. Assessment
23 of a civil penalty shall be final unless modified, suspended or vacated
24 within thirty days of imposition, with respect to the assessment of such
25 penalty, or unless such denial of request is reversed within such time
26 period, and upon becoming final shall be subject to review at the
27 instance of the affected reporting individuals in a proceeding commenced
28 against the legislative ethics commission, pursuant to article seventy-
29 eight of the civil practice law and rules.

30 § 3. This act shall take effect January 1, 2019.