

5049

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to activities by former state officers

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

1 Section 1. Paragraph (b) of subdivision 8 of section 73 of the public  
2 officers law, as amended by chapter 299 of the laws of 1995, subpara-  
3 graph (i) as amended by chapter 561 of the laws of 1998, is amended to  
4 read as follows:

5 (b) (i) The provisions of subparagraph (i) of paragraph (a) of this  
6 subdivision shall not apply to any state officer or employee whose  
7 employment was terminated on or after January first, nineteen hundred  
8 ninety-five and before April first, nineteen hundred ninety-nine OR ON  
9 OR AFTER JANUARY FIRST, TWO THOUSAND NINE AND BEFORE APRIL FIRST, TWO  
10 THOUSAND ELEVEN because of economy, consolidation or abolition of func-  
11 tions, curtailment of activities or other reduction in the state work  
12 force. On or before the date of such termination of employment, the  
13 state agency shall provide to the terminated employee a written certifi-  
14 cation that the employee has been terminated because of economy,  
15 consolidation or abolition of functions, curtailment of activities or  
16 other reduction in the state work force, and that such employee is  
17 covered by the provisions of this paragraph. The written certification  
18 shall also contain a notice describing the rights and responsibilities  
19 of the employee pursuant to the provisions of this section. The certifi-  
20 cation and notice shall contain the information and shall be in the  
21 form set forth below:

22 CERTIFICATION AND NOTICE

23 TO: Employee's Name: \_\_\_\_\_  
24 State agency: \_\_\_\_\_

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

LBD05297-01-9

1 Date of Termination: \_\_\_\_\_

2 I, (name and title) of (state agency), hereby certify that your termi-  
3 nation from State service is because of economy, consolidation or aboli-  
4 tion of functions, curtailment of activities or other reduction in the  
5 State work force. Therefore, you are covered by the provisions of para-  
6 graph (b) of subdivision eight of section seventy-three of the Public  
7 Officers Law.

8 You were designated as a policy maker: YES \_\_\_\_\_ NO \_\_\_\_\_

9 \_\_\_\_\_  
10 (TITLE)

11 TO THE EMPLOYEE:

12 This certification affects your right to engage in certain activities  
13 after you leave state service.

14 Ordinarily, employees who leave State service may not, for two years,  
15 appear or practice before their former agency or receive compensation  
16 for rendering services on a matter before their former agency. However,  
17 because of this certification, you may be exempt from this restriction.

18 If you were not designated as a Policymaker by your agency, you are  
19 automatically exempt. You may, upon leaving State service, immediately  
20 appear, practice or receive compensation for services rendered before  
21 your former agency.

22 If you were designated as a Policymaker by your agency, you are eligi-  
23 ble to apply for an exemption to the [State Ethics Commission] COMMIS-  
24 SION ON PUBLIC INTEGRITY at [39 Columbia Street] 540 BROADWAY, Albany,  
25 New York 12207.

26 Even if you are or become exempt from the two year bar, the lifetime  
27 bar of the revolving door statute will continue to apply to you. You may  
28 not appear, practice, communicate or otherwise render services before  
29 any State agency in relation to any case, proceeding, application or  
30 transaction with respect to which you were directly concerned and in  
31 which you personally participated during your State service, or which  
32 was under your active consideration.

33 If you have any questions about the application of the post-employment  
34 restrictions to your circumstances, you may contact the [State Ethics  
35 Commission] COMMISSION ON PUBLIC INTEGRITY at (518) [432-8207] 408-3976  
36 or 1-800-87ETHIC (1-800-873-8442).

37 (ii) The provisions of subparagraph (i) of this paragraph shall not  
38 apply to any such officer or employee who at the time of or prior to  
39 such termination had served in a policymaking position as determined by  
40 the appointing authority, which determination had been filed with the  
41 state ethics commission OR THE COMMISSION ON PUBLIC INTEGRITY, provided  
42 that such officer or employee may so appear or practice or receive such  
43 compensation with the prior approval of the state ethics commission OR  
44 THE COMMISSION ON PUBLIC INTEGRITY. In determining whether to grant such  
45 approval the state ethics commission OR THE COMMISSION ON PUBLIC INTEG-  
46 RITY shall consider:

47 A. whether the employee's prior job duties involved substantial deci-  
48 sion-making authority over policies, rule or contracts;

49 B. the nature of the duties to be performed by the employee for the  
50 prospective employer;

51 C. whether the prospective employment is likely to involve substantial  
52 contact with the employee's former agency and the extent to which any  
53 such contact is likely to involve matters where the agency has the  
54 discretion to make decisions based on the work product of the employee;

1 D. whether the prospective employment may be beneficial to the state  
2 or the public; and

3 E. the extent of economic hardship to the employee if the application  
4 is denied.

5 S 2. This act shall take effect immediately and shall be deemed to  
6 have been in full force and effect on or after January 1, 2009.