S T A T E O F N E W Y O R K

3961

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. OPPENHEIMER -- 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 penal law, in relation to prohibiting the use of an official position for political fundraising

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

Section 1. It is the intent of this legislation to declare that public officers have a responsibility to ensure that their conduct will not violate the public trust placed in them. Public officers must make certain that their conduct will not raise any suspicions or give the impression that they are acting in violation of such public trust. It is important that the legislature set forth the high standards of ethical conduct to which public officials are expected to adhere.

S 2. Subdivision 3 of section 74 of the public officers law is amended by adding two new paragraphs j and k to read as follows:

J. NO OFFICER OR EMPLOYEE OF A STATE AGENCY SHALL ATTEMPT TO EXPLOIT OR OTHERWISE USE HIS OR HER OFFICIAL POSITION FOR THE PURPOSE OF ASKING FOR OR REQUESTING POLITICAL CONTRIBUTIONS ON BEHALF OF ANY CANDIDATE FOR PUBLIC OFFICE OR POLITICAL COMMITTEE, NOR SHALL SUCH OFFICER OR EMPLOYEE USE ANY INFORMATION GAINED BY REASON OF HIS OR HER OFFICIAL POSITION FOR THE PURPOSE OF ASKING FOR OR REQUESTING POLITICAL CONTRIBUTIONS.

K. NO OFFICER OR EMPLOYEE OF A STATE AGENCY WHO HOLDS THE POSITION OF COMMISSIONER, DIRECTOR, SUPERINTENDENT, CHAIR, BOARD MEMBER, EXECUTIVE DIRECTOR, PRESIDENT, CHIEF ADMINISTRATOR, OR OTHER POSITION OF ULTIMATE AGENCY RESPONSIBILITY SHALL SOLICIT POLITICAL CONTRIBUTIONS ON BEHALF OF ANY CANDIDATE FOR PUBLIC OFFICE OR POLITICAL COMMITTEE, OR PERMIT HIS OR HER NAME TO BE USED FOR POLITICAL FUNDRAISING.

S 3. The penal law is amended by adding two new sections 200.28 and 200.29 to read as follows:

S 200.28 UNLAWFUL USE OF AN OFFICIAL POSITION IN THE FIRST DEGREE.

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

LBD09273-01-9

A PERSON IS GUILTY OF UNLAWFUL USE OF AN OFFICIAL POSITION IN THE FIRST DEGREE WHEN HE OR SHE KNOWINGLY ATTEMPTS TO EXPLOIT OR OTHERWISE USES HIS OR HER OFFICIAL POSITION OR INFORMATION GAINED BY VIRTUE OF THAT POSITION AS AN OFFICER OR EMPLOYEE OF A STATE AGENCY TO ENGAGE IN POLITICAL FUNDRAISING, OR FOR THE PURPOSE OF ASKING FOR OR REQUESTING POLITICAL CONTRIBUTIONS.

UNLAWFUL USE OF AN OFFICIAL POSITION IN THE FIRST DEGREE IS A CLASS E FELONY.

S 200.29 UNLAWFUL USE OF AN OFFICIAL POSITION IN THE SECOND DEGREE.

A PERSON IS GUILTY OF UNLAWFUL USE OF AN OFFICIAL POSITION IN THE SECOND DEGREE WHEN HE OR SHE IS AN OFFICER OR EMPLOYEE OF A STATE AGENCY WHO HOLDS THE POSITION OF COMMISSIONER, DIRECTOR, SUPERINTENDENT, CHAIR, BOARD MEMBER, EXECUTIVE DIRECTOR, PRESIDENT, CHIEF ADMINISTRATOR OR OTHER POSITION OF ULTIMATE AGENCY RESPONSIBILITY AND HE OR SHE KNOWINGLY SOLICITS POLITICAL CONTRIBUTIONS ON BEHALF OF ANY CANDIDATE FOR PUBLIC OFFICE OR A POLITICAL COMMITTEE, OR KNOWINGLY PERMITS HIS OR HER NAME TO BE USED FOR POLITICAL FUNDRAISING.

UNLAWFUL USE OF AN OFFICIAL POSITION IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 4. This act shall take effect immediately; provided that section three of this act shall take effect on the first of November next succeeding the date on which it shall have become a law.