

4021

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. WINNER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to referrals by the state inspector general to the attorney general for investigations of state officers and employees of the executive chamber or upon a determination of a conflict of interest

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

1 Section 1. The executive law is amended by adding a new section 56 to
2 read as follows:
3 S 56. REFERRAL TO THE ATTORNEY GENERAL; EXECUTIVE CHAMBER OR OTHER
4 CONFLICT OF INTEREST. 1. A. IN ANY MATTER WHICH INVOLVES AN ALLEGATION
5 OF CORRUPTION, FRAUD, CRIMINAL ACTIVITY, CONFLICT OF INTEREST OR ABUSE
6 BY A STATE OFFICER OR EMPLOYEE OF THE EXECUTIVE CHAMBER RELATING TO HIS
7 OR HER OFFICE OR EMPLOYMENT, OR BY ANY PERSON HAVING BUSINESS DEALINGS
8 WITH SUCH STATE OFFICER OR EMPLOYEE, THE STATE INSPECTOR GENERAL SHALL
9 REFER THE MATTER TO THE ATTORNEY GENERAL WHO SHALL COMMENCE A REVIEW OF
10 THE ALLEGED IMPROPRIETY.
11 B. IN ANY MATTER IN WHICH THE STATE INSPECTOR GENERAL DETERMINES THERE
12 IS A CONFLICT OF INTEREST AT ANY TIME DURING THE COURSE OF AN INVESTI-
13 GATION, THE STATE INSPECTOR GENERAL SHALL REFER THE MATTER TO THE ATTOR-
14 NEY GENERAL WHO SHALL CONTINUE THE INVESTIGATION OF THE ALLEGED IMPRO-
15 PRIETY.
16 2. THE ATTORNEY GENERAL SHALL HAVE THE FOLLOWING DUTIES, RESPONSIBIL-
17 ITIES AND POWERS WITH RESPECT TO AN INVESTIGATION REFERRED BY THE STATE
18 INSPECTOR GENERAL:
19 A. DETERMINE WITH RESPECT TO SUCH MATTERS UNDER INVESTIGATION WHETHER
20 DISCIPLINARY ACTION, CIVIL OR CRIMINAL PROSECUTION, OR FURTHER INVESTI-
21 GATION BY AN APPROPRIATE FEDERAL, STATE OR LOCAL AGENCY IS WARRANTED,
22 AND TO ASSIST IN SUCH INVESTIGATIONS;

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

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1 B. PREPARE AND RELEASE TO THE PUBLIC WRITTEN REPORTS OF SUCH INVESTI-
2 GATIONS, AS APPROPRIATE AND TO THE EXTENT PERMITTED BY LAW, SUBJECT TO
3 REDACTION TO PROTECT THE CONFIDENTIALITY OF WITNESSES. THE RELEASE OF
4 ALL OR PORTIONS OF SUCH REPORTS MAY BE DEFERRED TO PROTECT THE CONFIDEN-
5 TIALITY OF ONGOING INVESTIGATIONS;
6 C. RECOMMEND REMEDIAL ACTION TO PREVENT OR ELIMINATE THE UNDERLYING
7 CONDUCT WHICH WAS THE IMPETUS FOR THE INVESTIGATION AND TO PREVENT SUCH
8 ADDITIONAL CONFLICTS OF INTEREST FROM OCCURRING; OR IN THE CASE OF AN
9 INVESTIGATION OF THE EXECUTIVE CHAMBER, TO PREVENT OR ELIMINATE
10 CORRUPTION, FRAUD, CRIMINAL ACTIVITY, CONFLICTS OF INTEREST OR ABUSE IN
11 THE EXECUTIVE CHAMBER;
12 D. SUBPOENA AND ENFORCE THE ATTENDANCE OF WITNESSES;
13 E. ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE WITNESSES UNDER OATH;
14 F. REQUIRE THE PRODUCTION OF ANY BOOKS AND PAPERS DEEMED RELEVANT OR
15 MATERIAL TO ANY INVESTIGATION, EXAMINATION OR REVIEW;
16 G. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXAMINE AND COPY OR REMOVE
17 DOCUMENTS OR RECORDS OF ANY KIND PREPARED, MAINTAINED OR HELD BY THE
18 EXECUTIVE CHAMBER OR THE STATE OFFICE OF THE INSPECTOR GENERAL;
19 H. REQUIRE ANY OFFICER OR EMPLOYEE IN THE EXECUTIVE CHAMBER TO ANSWER
20 QUESTIONS CONCERNING ANY MATTER RELATED TO THE PERFORMANCE OF HIS OR HER
21 OFFICIAL DUTIES. NO STATEMENT OR OTHER EVIDENCE DERIVED THEREFROM MAY BE
22 USED AGAINST SUCH OFFICER OR EMPLOYEE IN ANY SUBSEQUENT CRIMINAL PROSE-
23 CUTION OTHER THAN FOR PERJURY OR CONTEMPT ARISING FROM SUCH TESTIMONY.
24 THE REFUSAL OF ANY OFFICER OR EMPLOYEE TO ANSWER QUESTIONS SHALL BE
25 CAUSE FOR REMOVAL FROM OFFICE OR EMPLOYMENT OR OTHER APPROPRIATE PENAL-
26 TY;
27 I. MONITOR THE IMPLEMENTATION OF ANY RECOMMENDATIONS MADE BY THE
28 ATTORNEY GENERAL; AND
29 J. PERFORM ANY OTHER FUNCTIONS THAT ARE NECESSARY OR APPROPRIATE TO
30 FULFILL THE DUTIES AND RESPONSIBILITIES OF OFFICE.
31 S 2. This act shall take effect immediately.