

4527

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the legislative law, in relation to registration filing fees for certain lobbying entities; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision (c) of section 1-c of the legislative law is
2 REPEALED and a new subdivision (c) is added to read as follows:
3 (C) THE TERM "LOBBYING" OR "LOBBYING ACTIVITIES" SHALL MEAN ANY
4 ATTEMPT TO INFLUENCE:
5 (I) THE PASSAGE OR DEFEAT OF ANY LEGISLATION BY EITHER HOUSE OF THE
6 STATE LEGISLATURE OR APPROVAL OR DISAPPROVAL OF ANY LEGISLATION BY THE
7 GOVERNOR;
8 (II) THE ADOPTION OR TERMS OF AN EXECUTIVE ORDER;
9 (III) THE ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY RULE OR REGU-
10 LATION HAVING THE FORCE AND EFFECT OF LAW BY A STATE AGENCY;
11 (IV) THE OUTCOME OF ANY RATE MAKING PROCEEDING BY A STATE AGENCY;
12 (V) ANY ACTION OR DETERMINATION BY A PUBLIC OFFICIAL OR BY A PERSON OR
13 ENTITY WORKING IN COOPERATION WITH A PUBLIC OFFICIAL OR BY EITHER HOUSE
14 OF THE STATE LEGISLATURE OR BY THE UNIFIED COURT SYSTEM RELATED TO THE
15 AWARD OR DENIAL OF ANY CONTRACT OR OTHER AGREEMENT FOR THE PROCUREMENT
16 OF GOODS, COMMODITIES, SERVICES, CONSTRUCTION, PUBLIC WORKS OR THE
17 PURCHASE, SALE, OR LEASE OF REAL PROPERTY, OR ANY INTEREST IN REAL PROP-
18 ERTY, ANY REVENUE CONTRACT OR ANY OTHER SIMILAR TRANSACTION, WHICH
19 ACTIONS OR DETERMINATIONS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO
20 ACTIONS OR DETERMINATIONS SETTING THE PROCUREMENT METHODOLOGY, THE TERMS
21 OF A REQUEST FOR PROPOSALS OR INVITATION FOR BIDS OR OTHER PROCUREMENT
22 SOLICITATIONS AND THEIR EVALUATION, THE TERMS OF THE CONTRACT, THE
23 SELECTION OF A CONTRACTOR, AND THE ADMINISTRATION, IMPLEMENTATION, AND
24 ENFORCEMENT OF A CONTRACT;

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

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1 (VI) ANY ACTION OR DECISION BY A PUBLIC OFFICIAL OR BY A PERSON OR
2 ENTITY WORKING IN COOPERATION WITH A PUBLIC OFFICIAL OR BY A MUNICIPAL
3 OFFICER OR A PERSON OR ENTITY WORKING IN COOPERATION WITH THE MUNICIPAL
4 OFFICER IN RELATION TO THE APPROVAL OR DISAPPROVAL OR THE IMPLEMENTATION
5 AND ADMINISTRATION OF TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING,
6 OR ANY OTHER TRIBAL-STATE AGREEMENTS AND ANY STATE ACTIONS RELATED TO
7 CLASS III GAMING AS PROVIDED IN 25 USC 2701, EXCEPT TO THE EXTENT DESIG-
8 NATION OF SUCH ACTIVITIES AS "LOBBYING" IS BARRED BY THE FEDERAL INDIAN
9 GAMING REGULATORY ACT;

10 (VII) THE PASSAGE OR DEFEAT OF ANY LOCAL LAW, ORDINANCE, RESOLUTION,
11 OR REGULATION BY ANY MUNICIPALITY OR SUBDIVISION THEREOF OR THE
12 ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY RULE, REGULATION, OR
13 RESOLUTION HAVING THE FORCE AND EFFECT OF A LOCAL LAW, ORDINANCE, RESOL-
14 UTION, OR REGULATION;

15 (VIII) ANY RATE MAKING PROCEEDING BY ANY MUNICIPALITY OR SUBDIVISION
16 THEREOF; OR

17 (IX) ANY ACTION OR DETERMINATION BY A MUNICIPAL OFFICER OR A PERSON OR
18 ENTITY WORKING IN COOPERATION WITH THE OFFICER RELATED TO THE AWARD OR
19 DENIAL OF ANY CONTRACT OR OTHER AGREEMENT FOR THE PROCUREMENT OF GOODS,
20 COMMODITIES, SERVICES, CONSTRUCTION, PUBLIC WORKS OR THE PURCHASE, SALE,
21 OR LEASE OF REAL PROPERTY, OR ANY INTEREST IN REAL PROPERTY, ANY REVENUE
22 CONTRACT OR ANY OTHER SIMILAR TRANSACTION, WHICH ACTIONS OR DETERMI-
23 NATIONS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO ACTIONS OR DETERMI-
24 NATIONS SETTING THE PROCUREMENT METHODOLOGY, THE TERMS OF A REQUEST FOR
25 PROPOSALS OR INVITATION FOR BIDS OR OTHER PROCUREMENT SOLICITATIONS AND
26 THEIR EVALUATION, THE TERMS OF THE CONTRACT, THE SELECTION OF A CONTRAC-
27 TOR, AND THE ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT OF A
28 CONTRACT.

29 THE TERM "LOBBYING" SHALL NOT INCLUDE:

30 (1) PERSONS ENGAGED IN DRAFTING LEGISLATION, RULES, REGULATIONS OR
31 RATES, ADVISING CLIENTS AND RENDERING OPINIONS ON PROPOSED LEGISLATION,
32 RULES, REGULATIONS OR RATES, WHERE SUCH PROFESSIONAL SERVICES ARE NOT
33 OTHERWISE CONNECTED WITH LEGISLATIVE OR EXECUTIVE ACTION ON SUCH LEGIS-
34 LATION, OR ADMINISTRATIVE ACTION ON SUCH RULES, REGULATIONS OR RATES;

35 (2) NEWSPAPERS AND OTHER PERIODICALS AND RADIO AND TELEVISION
36 STATIONS, AND OWNERS AND EMPLOYEES THEREOF, PROVIDED THAT THEIR ACTIV-
37 ITIES IN CONNECTION WITH PROPOSED LEGISLATION, RULES, REGULATIONS, RATES
38 OR CONTRACTS OR OTHER AGREEMENTS FOR THE PROCUREMENT OF GOODS, COMMOD-
39 ITIES, SERVICES, CONSTRUCTION, OR PUBLIC WORKS BY A STATE AGENCY, MUNIC-
40 IPAL AGENCY, LOCAL LEGISLATIVE BODY, THE STATE LEGISLATURE, OR THE
41 UNIFIED COURT SYSTEM OR CONTRACTS OR OTHER AGREEMENTS FOR THE PURCHASE,
42 SALE, OR LEASE OF REAL PROPERTY OR THE ACQUISITION OR GRANT OF OTHER
43 PROPERTY INTERESTS IN REAL PROPERTY BY A STATE AGENCY, MUNICIPAL AGENCY,
44 LOCAL LEGISLATIVE BODY, THE STATE LEGISLATURE, OR THE UNIFIED COURT
45 SYSTEM, ARE LIMITED TO THE PUBLICATION OR BROADCAST OF NEWS ITEMS,
46 EDITORIALS OR OTHER COMMENTS, OR PAID ADVERTISEMENTS;

47 (3) PERSONS WHO PARTICIPATE AS WITNESSES, ATTORNEYS OR OTHER REPRESEN-
48 TATIVES IN PUBLIC RULE MAKING OR RATE MAKING PROCEEDINGS OF A STATE OR
49 MUNICIPAL AGENCY, WITH RESPECT TO ALL PARTICIPATION BY SUCH PERSONS
50 WHICH IS PART OF THE PUBLIC RECORD THEREOF AND ALL PREPARATION BY SUCH
51 PERSONS FOR SUCH PARTICIPATION;

52 (4) PERSONS WHO ATTEMPT TO INFLUENCE A STATE OR MUNICIPAL AGENCY IN AN
53 ADJUDICATORY PROCEEDING, AS "ADJUDICATORY PROCEEDING" IS DEFINED BY
54 SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT;

55 (5) PERSONS WHO PREPARE OR SUBMIT A RESPONSE TO A REQUEST FOR INFORMA-
56 TION OR COMMENTS BY THE STATE LEGISLATURE, THE GOVERNOR, OR A STATE

1 AGENCY OR A COMMITTEE OR OFFICER OF THE LEGISLATURE OR A STATE AGENCY OR
2 BY A LEGISLATIVE OR EXECUTIVE BODY OR OFFICER OF A MUNICIPALITY OR A
3 COMMISSION, COMMITTEE OR OFFICER OF A MUNICIPAL LEGISLATIVE OR EXECUTIVE
4 BODY;

5 (6) ANY ATTEMPT BY A CHURCH, ITS INTEGRATED AUXILIARY, OR A CONVENTION
6 OR ASSOCIATION OF CHURCHES THAT IS EXEMPT FROM FILING A FEDERAL INCOME
7 TAX RETURN UNDER PARAGRAPH 2(A)(I) OF SECTION 6033(A) OF TITLE 26 OF THE
8 UNITED STATES CODE OR A RELIGIOUS ORDER THAT IS EXEMPT FROM FILING A
9 FEDERAL INCOME TAX RETURN UNDER PARAGRAPH (2)(A)(III) OF SUCH SECTION
10 6033(A) TO INFLUENCE PASSAGE OR DEFEAT OF A LOCAL LAW, ORDINANCE OR
11 REGULATION OR ANY RULE OR REGULATION HAVING THE FORCE AND EFFECT OF A
12 LOCAL LAW, ORDINANCE OR REGULATION;

13 (7) ANY ACTIVITY RELATING TO PROCUREMENTS MADE UNDER SECTION ONE
14 HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW UNDERTAKEN BY (I) THE
15 NON-PROFIT-MAKING AGENCIES APPOINTED PURSUANT TO PARAGRAPH E OF SUBDIVI-
16 SION SIX OF SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW BY
17 THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE
18 COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED, OR THE COMMISSIONER
19 OF EDUCATION, AND (II) THE QUALIFIED CHARITABLE NON-PROFIT-MAKING AGEN-
20 CIES FOR THE BLIND, AND QUALIFIED CHARITABLE NON-PROFIT-MAKING AGENCIES
21 FOR OTHER SEVERELY DISABLED PERSONS AS IDENTIFIED IN SUBDIVISION TWO OF
22 SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW;

23 (8) PARTICIPANTS, INCLUDING THOSE APPEARING ON BEHALF OF A CLIENT, IN
24 A PUBLICLY NOTICED CONFERENCE PURSUANT TO A REQUEST FOR PROPOSALS, INVI-
25 TATION FOR BIDS, OR OTHER SOLICITATIONS;

26 (9) PERSONS WHO HAVE BEEN TENTATIVELY AWARDED A CONTRACT OR REPRESENT
27 PERSONS WHO HAVE BEEN TENTATIVELY AWARDED A CONTRACT AND ARE ENGAGED IN
28 COMMUNICATIONS WITH A STATE AGENCY OR MUNICIPALITY SOLELY FOR THE
29 PURPOSE OF NEGOTIATING THE TERMS OF THE CONTRACT AFTER BEING NOTIFIED OF
30 SUCH AWARD OR PERSONS OR THEIR REPRESENTATIVES WHO ARE PURCHASING PURSU-
31 ANT TO AN EXISTING CONTRACT; OR PERSONS WHO CURRENTLY HOLD A FRANCHISE
32 AND WHO ARE ENGAGED IN NEGOTIATING THE TERMS OF A TENTATIVE FRANCHISE
33 RENEWAL CONTRACT WITH A MUNICIPALITY, BUT SUCH NEGOTIATIONS, WHICH DO
34 NOT CONSTITUTE LOBBYING, DO NOT INCLUDE COMMUNICATIONS TO THE LOCAL
35 LEGISLATIVE BODY THAT MUST APPROVE THE CONTRACT;

36 (10) PERSONS OR THE REPRESENTATIVES OF PERSONS WHO ARE A PARTY TO A
37 PROTEST, APPEAL OR OTHER REVIEW PROCEEDING (INCLUDING THE APPARENT
38 SUCCESSFUL BIDDER OR PROPOSER AND HIS OR HER REPRESENTATIVE) OR PERSONS
39 WHO BRING COMPLAINTS OF ILLEGAL CONDUCT IN A PROCUREMENT PROCESS TO THE
40 COMPTROLLER'S OFFICE, THE ATTORNEY GENERAL, INSPECTOR GENERAL, OR A
41 DISTRICT ATTORNEY;

42 (11) THE SUBMISSION OF A BID OR PROPOSAL (WHETHER SUBMITTED ORALLY OR
43 IN WRITING) IN RESPONSE TO A REQUEST FOR PROPOSALS OR INVITATION FOR
44 BIDS;

45 (12) PROSPECTIVE BIDDERS OR PROPOSERS OR THEIR REPRESENTATIVES SUBMIT-
46 TING WRITTEN QUESTIONS TO A DESIGNATED AGENCY OR MUNICIPAL CONTACT SET
47 FORTH IN A REQUEST FOR PROPOSALS, OR INVITATION FOR BIDS; AND

48 (13) APPLICATIONS FOR LICENSES, CERTIFICATES, AND PERMITS AUTHORIZED
49 BY OTHER STATUTES.

50 S. 2. Subdivisions (m) and (n) of section 1-c of the legislative law
51 are REPEALED and two new subdivisions (m) and (n) are added to read as
52 follows:

53 (M) THE TERM "RESTRICTED PERIOD" SHALL MEAN THE PERIOD OF TIME BEGIN-
54 NING WITH THE ISSUANCE OF A REQUEST FOR PROPOSAL, INVITATION FOR BIDS,
55 OR SOLICITATION OF PROPOSALS, OR ANY OTHER METHOD FOR SOLICITING A
56 RESPONSE FROM POTENTIAL CONTRACTORS INTENDING TO RESULT IN A CONTRACT

1 WITH A STATE AGENCY, MUNICIPALITY, THE STATE LEGISLATURE, OR STATE JUDI-
2 CIARY AND ENDING WITH THE TENTATIVE AWARD OF THE CONTRACT.

3 (N) FOR PURPOSES OF THIS ARTICLE, A REVENUE CONTRACT SHALL MEAN ANY
4 WRITTEN AGREEMENT BETWEEN AN AGENCY OR MUNICIPALITY AND A PRIVATE INDI-
5 VIDUAL OR BUSINESS ENTITY WHEREBY THE AGENCY OR MUNICIPALITY GIVES OR
6 GRANTS A CONCESSION, A FRANCHISE OR ANY CONSIDERATION OTHER THAN THE
7 PAYMENT OF MONEY.

8 S 3. Paragraphs 5 and 6 of subdivision (c) of section 1-e of the
9 legislative law, as amended by chapter 1 of the laws of 2005, are
10 amended to read as follows:

11 (5) the following information on which the lobbyist expects to lobby:
12 (i) a description of the general subject or subjects, (ii) the legisla-
13 tive bill numbers of any bills OR RESOLUTIONS, (iii) the numbers or
14 subject matter (if there are no numbers) of gubernatorial executive
15 orders or executive orders issued by the chief executive officer of a
16 municipality, (iv) the subject matter of and tribes involved in tribal-
17 state compacts, memoranda of understanding, or any other state-tribal
18 agreements and any state actions related to class III gaming as provided
19 in 25 U.S.C. S 2701, (v) the rule, regulation, and ratemaking numbers of
20 any rules, regulations, rates, or municipal ordinances and resolutions,
21 or proposed rules, regulations, or rates, or municipal ordinances and
22 resolutions, and (vi) the titles and any identifying numbers of any
23 procurement contracts, BIDS, REQUESTS FOR PROPOSALS, INVITATION FOR BIDS
24 and other documents disseminated by a state agency, either house of the
25 state legislature, the unified court system, municipal agency or local
26 legislative body in connection with a governmental procurement;

27 (6) the name of the [person, organization, or legislative body]
28 PERSONS, ORGANIZATIONS AND LEGISLATIVE BODIES before which the lobbyist
29 is lobbying or expects to lobby;

30 S 4. Paragraph 3 of subdivision (b) of section 1-h of the legislative
31 law, as amended by chapter 14 of the laws of 2007, is amended to read as
32 follows:

33 (3) the following information on which the lobbyist has lobbied: (i) a
34 description of the general subject or subjects, (ii) the legislative
35 bill numbers of any bills OR RESOLUTIONS, (iii) the numbers or subject
36 matter (if there are no numbers) of gubernatorial executive orders or
37 executive orders issued by the chief executive officer of a municipi-
38 pality, (iv) the subject matter of and tribes involved in tribal-state
39 compacts, memoranda of understanding, or any other state-tribal agree-
40 ments and any state actions related to class III gaming as provided in
41 25 U.S.C. S 2701, (v) the rule, regulation, and ratemaking or municipal
42 ordinance or resolution numbers of any rules, regulations, or rates or
43 ordinance or proposed rules, regulations, or rates or municipal ordi-
44 nances or resolutions, and (vi) the titles and any identifying numbers
45 of any procurement contracts, BIDS, REQUESTS FOR PROPOSALS OR INVITATION
46 FOR BIDS and other documents disseminated by a state agency, either
47 house of the state legislature, the unified court system, municipal
48 agency or local legislative body in connection with a governmental
49 procurement;

50 S 5. Paragraph 3 of subdivision (c) of section 1-j of the legislative
51 law, as amended by chapter 1 of the laws of 2005, is amended to read as
52 follows:

53 (3) the following information on which each lobbyist retained,
54 employed or designated by such client has lobbied, and on which such
55 client has lobbied: (i) a description of the general subject or
56 subjects, (ii) the legislative bill numbers of any bills OR RESOLUTIONS,

1 (iii) the numbers or subject matter (if there are no numbers) of guber-
2 natorial executive orders or executive orders issued by the chief execu-
3 tive officer of a municipality, (iv) the subject matter of and tribes
4 involved in tribal-state compacts, memoranda of understanding, or any
5 other state-tribal agreements and any state actions related to class III
6 gaming as provided in 25 U.S.C. 2701, (v) the rule, regulation, and
7 ratemaking or municipal resolution or ordinance numbers of any rules,
8 regulations, or rates, or municipal resolutions or ordinances or
9 proposed rules, regulations, or rates, or municipal ordinances or resol-
10 utions and (vi) the titles and any identifying numbers of any procure-
11 ment contracts, BIDS, REQUESTS FOR PROPOSALS OR INVITATION FOR BIDS and
12 other documents disseminated by a state agency, either house of the
13 state legislature, the unified court system, municipal agency or local
14 legislative body in connection with a governmental procurement;

15 S 6. Section 1-k of the legislative law is REPEALED and a new section
16 1-k is added to read as follows:

17 S 1-K. CONTINGENT RETAINER. (A) NO CLIENT SHALL RETAIN OR EMPLOY ANY
18 LOBBYIST FOR COMPENSATION, THE RATE OR AMOUNT OF WHICH COMPENSATION IN
19 WHOLE OR PART IS CONTINGENT OR DEPENDENT UPON: (I) THE PASSAGE OR DEFEAT
20 OF ANY LEGISLATIVE BILL OR THE APPROVAL OR VETO OF ANY LEGISLATION BY
21 THE GOVERNOR, THE ADOPTION OR TERMS OF AN EXECUTIVE ORDER, OR THE
22 ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY CODE, RULE OR REGULATION
23 HAVING THE FORCE AND EFFECT OF LAW, OR THE OUTCOME OF ANY RATE MAKING
24 PROCEEDING BY A STATE AGENCY OR THE ACCEPTANCE OF OR DECISION REGARDING
25 ANY BID OR CONTRACT BY A STATE AGENCY OR AGREEMENT FOR THE PURCHASE,
26 SALE, OR LEASE OF REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY, ANY
27 REVENUE CONTRACT OR ANY OTHER SIMILAR TRANSACTION, WHICH ACTIONS OR
28 DETERMINATIONS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO ACTIONS OR
29 DETERMINATIONS SETTING THE PROCUREMENT METHODOLOGY, THE TERMS OF A
30 REQUEST FOR PROPOSALS OR INVITATION FOR BIDS OR OTHER PROCUREMENT SOLIC-
31 ITATIONS AND THEIR EVALUATION, THE TERMS OF THE CONTRACT, THE SELECTION
32 OF A CONTRACTOR, AND THE ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT
33 OF A CONTRACT, THE APPROVAL OR DISAPPROVAL OF A TRIBAL-STATE AGREEMENT
34 OR (II) THE PASSAGE OR DEFEAT OF ANY LOCAL LAW, ORDINANCE, RESOLUTION,
35 OR REGULATION BY ANY MUNICIPALITY OR SUBDIVISION THEREOF, OR THE
36 ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY RULE, RESOLUTION, OR REGU-
37 LATION HAVING THE FORCE OR EFFECT OF A LOCAL LAW, ORDINANCE, RESOLUTION,
38 OR REGULATION, OR THE OUTCOME OF ANY RATEMAKING PROCEEDING BY ANY MUNI-
39 CIPALITY OR SUBDIVISION THEREOF OR THE ACCEPTANCE OF OR DECISION REGARD-
40 ING ANY BID OR CONTRACT OR AGREEMENT FOR THE PURCHASE, SALE, OR LEASE OF
41 REAL PROPERTY OR GRANT OF OTHER INTEREST IN REAL PROPERTY BY A MUNICI-
42 PALITY, THE DECISION OF ANY MUNICIPAL OFFICIAL REGARDING PROCUREMENT
43 METHODOLOGY, TERMS OF BIDS OR SOLICITATIONS, OR THE ADMINISTRATION,
44 IMPLEMENTATION, AND ENFORCEMENT OF A CONTRACT. THIS SECTION SHALL NOT
45 APPLY TO COMMISSION SALESPERSONS. THE TERM "COMMISSION SALESPERSON"
46 SHALL MEAN ANY PERSON THE PRIMARY PURPOSE OF WHOSE EMPLOYMENT IS TO
47 CAUSE OR PROMOTE THE SALE OF, OR TO INFLUENCE OR INDUCE ANOTHER TO MAKE
48 A PURCHASE OF GOODS, COMMODITIES, OR SERVICES, WHETHER SUCH PERSON IS AN
49 EMPLOYEE (AS THAT TERM IS DEFINED FOR TAX PURPOSES) OF OR AN INDEPENDENT
50 CONTRACTOR FOR A VENDOR, PROVIDED THAT AN INDEPENDENT CONTRACTOR SHALL
51 HAVE A WRITTEN CONTRACT FOR A TERM OF NOT LESS THAN SIX MONTHS OR FOR AN
52 INDEFINITE TERM, AND WHICH PERSON SHALL BE COMPENSATED, IN WHOLE OR IN
53 PART, BY THE PAYMENT OF A PERCENTAGE AMOUNT OF ALL OR A SUBSTANTIAL PART
54 OF THE SALES WHICH SUCH PERSON HAS CAUSED, PROMOTED, INFLUENCED OR
55 INDUCED, PROVIDED, HOWEVER, THAT NO PERSON SHALL BE CONSIDERED A COMMIS-
56 SION SALESPERSON WITH RESPECT TO ANY SALE TO OR PURCHASE BY AN AGENCY OF

1 THE STATE OR MUNICIPALITY IF THE PERCENTAGE AMOUNT OF ANY COMMISSION
2 PAYABLE WITH RESPECT TO SUCH SALE OR PURCHASE IS SUBSTANTIALLY IN EXCESS
3 OF ANY COMMISSION PAYABLE WITH RESPECT TO ANY COMPARABLE SALE TO A
4 PURCHASER THAT IS NOT AN AGENCY OF THE STATE OR MUNICIPALITY.

5 (B) NO PERSON SHALL ACCEPT SUCH A RETAINER OR EMPLOYMENT. A VIOLATION
6 OF THIS SECTION SHALL BE A CLASS A MISDEMEANOR.

7 S 7. Section 1-n of the legislative law is REPEALED and a new section
8 1-n is added to read as follows:

9 S 1-N. RESTRICTED CONTACTS. 1. DURING THE RESTRICTED PERIOD, A POTEN-
10 TIAL CONTRACTOR OR ITS REPRESENTATIVE SHALL NOT ENGAGE IN LOBBYING
11 ACTIVITIES CONCERNING A PENDING CONTRACT DECISION BY MAKING CONTACT WITH
12 AN OFFICER, EMPLOYEE, AGENT, CONSULTANT OR OTHER REPRESENTATIVE OF THE
13 CONTRACTING AGENCY OR MUNICIPALITY, INCLUDING THE EXECUTIVE CHAMBER IF A
14 STATE AGENCY IS THE CONTRACTING ENTITY OR, IF THE LEGISLATURE IS THE
15 CONTRACTING ENTITY, ANY ELECTED LEGISLATOR OR LEGISLATIVE STAFF, OR IF
16 THE JUDICIARY IS THE CONTRACTING ENTITY, ANY JUDICIAL OFFICER OR STAFF,
17 WHO IS NOT DESIGNATED BY THE CONTRACTING ENTITY AS A CONTACT PERSON TO
18 WHOM SUCH COMMUNICATION MUST BE DIRECTED. THE PROHIBITION SET FORTH IN
19 THE PRECEDING SENTENCE SHALL NOT APPLY TO ANY CONTACTS DESCRIBED IN
20 SUBDIVISION TWO OF THIS SECTION.

21 2. A COMPLAINT BY A POTENTIAL CONTRACTOR OR REPRESENTATIVE OF A POTEN-
22 TIAL CONTRACTOR REGARDING THE CONTRACTING PROCESS MAY BE MADE IN WRITING
23 TO THE GENERAL COUNSEL'S OFFICE OF THE STATE AGENCY, MUNICIPALITY,
24 LEGISLATIVE BODY OR JUDICIAL ENTITY CONDUCTING THE PROCUREMENT. SUCH
25 OFFICE SHALL UPON RECEIPT HAVE FIVE BUSINESS DAYS TO ISSUE A WRITTEN
26 RESPONSE TO THE COMPLAINANT. NOTHING IN THIS SECTION SHALL BE DEEMED TO
27 PREVENT OR DELAY ANY PERSON FROM, AT ANY TIME, SUBMITTING A COMPLAINT OR
28 AN APPEAL REGARDING THE PROCUREMENT OR CONTRACTING PROCESS TO (I) THE
29 STATE COMPTROLLER; (II) THE INSPECTOR GENERAL; (III) THE ATTORNEY GENER-
30 AL; (IV) A DISTRICT ATTORNEY; OR (V) ANY OTHER LAW ENFORCEMENT AGENCY.

31 S 8. Section 1-t of the legislative law is REPEALED and a new section
32 1-t is added to read as follows:

33 S 1-T. ADVISORY COUNCIL ON PROCUREMENT LOBBYING. (A) THERE SHALL BE
34 WITHIN THE COMMISSION, AN ADVISORY COUNCIL ON PROCUREMENT LOBBYING. THE
35 COUNCIL SHALL BE COMPOSED OF NINE MEMBERS AS FOLLOWS:

36 (I) THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, OR HIS OR HER
37 DESIGNEE;

38 (II) THE STATE COMPTROLLER, OR HIS OR HER DESIGNEE;

39 (III) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE;

40 (IV) ONE MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

41 (V) ONE MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

42 (VI) ONE MEMBER APPOINTED BY THE SENATE MINORITY LEADER;

43 (VII) ONE MEMBER APPOINTED BY THE ASSEMBLY MINORITY LEADER;

44 (VIII) ONE MEMBER APPOINTED BY THE GOVERNOR WHO SHALL BE REPRESENTATIVE OF PUBLIC AUTHORITIES OR PUBLIC BENEFIT CORPORATIONS; AND

45 (IX) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS.

46 (B) THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR
47 SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
48 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

49 (C) THE COUNCIL SHALL PROVIDE ADVICE TO THE COMMISSION WITH RESPECT TO
50 THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE AS SUCH PROVISIONS
51 PERTAIN TO PROCUREMENT LOBBYING.

52 (D) THE COUNCIL SHALL ANNUALLY REPORT TO THE LEGISLATURE ANY PROBLEMS
53 IN THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE AS SUCH
54 PROVISIONS PERTAIN TO PROCUREMENT LOBBYING. THE COUNCIL SHALL INCLUDE IN
55

1 THE REPORT ANY RECOMMENDED CHANGES TO INCREASE THE EFFECTIVENESS OF THAT
2 IMPLEMENTATION.

3 (E) THE COUNCIL SHALL, BY OCTOBER THIRTIETH, TWO THOUSAND ELEVEN,
4 SUBMIT A REPORT TO THE LEGISLATURE ON THE EFFECTS OF THE PROCUREMENT
5 PROVISIONS AS SET FORTH IN THIS ARTICLE INCLUDING BUT NOT LIMITED TO ANY
6 CHANGES IN THE NUMBER AND NATURE OF VENDORS AND PROSPECTIVE VENDORS
7 AFTER JANUARY FIRST, TWO THOUSAND EIGHT.

8 S 9. This act shall take effect immediately; provided, however, that
9 section one of this act shall take effect on the first of January next
10 succeeding the date on which this act shall have become a law.