

6159

2009-2010 Regular Sessions

I N   S E N A T E

September 8, 2009

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

AN ACT to amend the legislative law and the public officers law, in relation to state legislative ethics

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "ethics in state government now act".  
3     S 2. Section 80 of the legislative law, as amended by chapter 14 of  
4     the laws of 2007, is amended to read as follows:  
5     S 80. Legislative ethics commission; functions, powers and duties;  
6     review of financial disclosure statements; advisory opinions; investi-  
7     gation and enforcement.  
8     1. There is established a legislative ethics commission which shall  
9     consist of nine members. Four members shall be [members of the legisla-  
10    ture and shall be] appointed as follows: one by the temporary president  
11    of the senate, one by the speaker of the assembly, one by the minority  
12    leader of the senate and one by the minority leader of the assembly.  
13    [The remaining five] SUCH FOUR members shall not be present or former  
14    members of the legislature, candidates for member of the legislature,  
15    employees of the legislature, political party chairmen as defined in  
16    paragraph (k) of subdivision one of section seventy-three of the public  
17    officers law, or lobbyists, as defined in section one-c of this chapter,  
18    or persons who have been employees of the legislature, political party  
19    chairmen as defined in paragraph (k) of subdivision one of section  
20    seventy-three of the public officers law, or lobbyists, as defined in  
21    section one-c of this chapter in the previous five years[, and shall be  
22    appointed as follows: one by the temporary president of the senate, one  
23    by the speaker of the assembly, one by the minority leader of the  
24    senate, one by the minority leader of the assembly, and one]. THE LEGIS-  
25    LATIVE LEADERS SHALL APPOINT INDIVIDUALS WHO ARE QUALIFIED TO SERVE ON

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

LBD14700-01-9

1 THE COMMISSION BY VIRTUE OF THEIR EDUCATION, TRAINING OR EXPERIENCE IN  
2 ONE OR MORE OF THE FOLLOWING DISCIPLINES: LEGISLATIVE, JUDICIAL, ADMIN-  
3 ISTRATIVE OR PROFESSIONAL ETHICS; BUSINESS; LAW; AND/OR ACADEMICS. FIVE  
4 MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS FOLLOWS: ONE BY THE  
5 GOVERNOR, ONE BY THE ATTORNEY GENERAL, ONE BY THE STATE COMPTROLLER, ONE  
6 BY THE CHIEF JUDGE OF THE COURT OF APPEALS AND ONE BY THE CHAIRMAN OF  
7 THE COMMISSION ON PUBLIC INTEGRITY. THE CHAIR OF THE LEGISLATIVE ETHICS  
8 COMMISSION SHALL BE jointly DESIGNATED by the speaker of the assembly  
9 and [majority leader] THE TEMPORARY PRESIDENT of the senate FROM AMONGST  
10 THE FIVE MEMBERS APPOINTED BY THE GOVERNOR, ATTORNEY GENERAL, STATE  
11 COMPTROLLER, CHIEF JUDGE OF THE COURT OF APPEALS AND CHAIRMAN OF THE  
12 COMMISSION ON PUBLIC INTEGRITY. NO MORE THAN FIVE MEMBERS OF THE COMMIS-  
13 SION SHALL BELONG TO THE SAME POLITICAL PARTY. The commission shall  
14 serve as described in this section and have and exercise the powers and  
15 duties set forth in this section only with respect to members of the  
16 legislature, legislative employees as defined in section seventy-three  
17 of the public officers law, candidates for member of the legislature and  
18 individuals who have formerly held such positions or who have formerly  
19 been such candidates.

20 2. [Members of the legislature who serve on the commission shall each  
21 have a two year term concurrent with their legislative terms of office.]  
22 The members of the commission [who are not members of the legislature  
23 and] who are first appointed, AFTER THE EFFECTIVE DATE OF THE CHAPTER OF  
24 THE LAWS OF TWO THOUSAND NINE WHICH AMENDED THIS SECTION, by the tempo-  
25 rary president of the senate, speaker of the assembly, minority leader  
26 of the senate, and minority leader of the assembly shall serve one, two,  
27 three and four year terms, respectively. THE MEMBERS OF THE COMMISSION  
28 WHO ARE FIRST APPOINTED, AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE  
29 LAWS OF TWO THOUSAND NINE WHICH AMENDED THIS SECTION, BY THE GOVERNOR,  
30 ATTORNEY GENERAL, STATE COMPTROLLER, CHIEF JUDGE OF THE COURT OF APPEALS  
31 AND THE CHAIRMAN OF THE COMMISSION ON PUBLIC INTEGRITY SHALL SERVE TERMS  
32 OF FOUR YEARS. The [member] CHAIR of the commission [first appointed]  
33 DESIGNATED jointly by the TEMPORARY president of the senate and speaker  
34 of the assembly shall serve a four year term AS CHAIR. Each member of  
35 the commission [who is not a member of the legislature] shall be  
36 appointed thereafter for a term of four years.

37 3. [The temporary president of the senate and the speaker of the  
38 assembly shall each designate one member of the commission as a  
39 co-chairperson thereof.] The commission shall meet at least bi-monthly  
40 and at such additional times as may be called for by the [co-chairper-  
41 sons jointly] CHAIR or any five members of the commission.

42 4. Any vacancy occurring on the commission shall be filled within  
43 thirty days by the appointing authority.

44 5. Five members of the commission shall constitute a quorum, and the  
45 commission shall have power to act by majority vote of the total number  
46 of members of the commission without vacancy.

47 6. The members of the commission shall be reimbursed for reasonable  
48 expenses incurred in the performance of their official duties.

49 7. The commission shall:

50 a. Appoint an executive director who shall act in accordance with the  
51 policies of the commission;

52 b. Appoint such other staff as are necessary to assist it to carry out  
53 its duties under this section;

54 c. Adopt, amend, and rescind policies, rules and regulations consist-  
55 ent with this section to govern procedures of the commission which shall

1 [not] be subject to the promulgation and hearing requirements of the  
2 state administrative procedure act;

3 d. Administer the provisions of this section;

4 e. Specify the procedures whereby a person who is required to file an  
5 annual financial disclosure statement with the commission may request an  
6 additional period of time within which to file such statement, due to  
7 justifiable cause or undue hardship; such rules or regulations shall  
8 provide for a date beyond which in all cases of justifiable cause or  
9 undue hardship no further extension of time will be granted;

10 f. Promulgate guidelines to assist appointing authorities in determin-  
11 ing which persons hold policy-making positions for purposes of section  
12 seventy-three-a of the public officers law and may promulgate guidelines  
13 to assist firms, associations and corporations in separating affected  
14 persons from net revenues for purposes of subdivision ten of section  
15 seventy-three of the public officers law, and promulgate guidelines to  
16 assist any firm, association or corporation in which any present or  
17 former statewide elected official, state officer or employee, member of  
18 the legislature or legislative employee, or political party chairman is  
19 a member, associate, retired member, of counsel or shareholder, in  
20 complying with the provisions of subdivision ten of section seventy-  
21 three of the public officers law with respect to the separation of such  
22 present or former statewide elected official, state officer or employee,  
23 member of the legislature or legislative employee, or political party  
24 chairman from the net revenues of the firm, association or corporation.  
25 Such firm, association or corporation shall not be required to adopt the  
26 procedures contained in the guidelines to establish compliance with  
27 subdivision ten of section seventy-three of the public officers law, but  
28 if such firm, association or corporation does adopt such procedures, it  
29 shall be deemed to be in compliance with such subdivision ten;

30 g. Make available forms for financial disclosure statements required  
31 to be filed pursuant to subdivision six of section seventy-three and  
32 section seventy-three-a of the public officers law;

33 h. Review financial disclosure statements in accordance with the  
34 provisions of this section, provided however, that the commission may  
35 delegate all or part of the review function relating to financial  
36 disclosure statements filed by MEMBERS OF THE LEGISLATURE AND legisla-  
37 tive employees pursuant to sections seventy-three and seventy-three-a of  
38 the public officers law to the executive director who shall be responsi-  
39 ble for completing staff review of such statements in a manner consist-  
40 ent with the terms of the commission's delegation;

41 i. [Permit any person required to file a financial disclosure state-  
42 ment to request the commission to delete from the copy thereof made  
43 available for public inspection and copying one or more items of infor-  
44 mation, which may be deleted by the commission upon a finding that the  
45 information which would otherwise be required to be disclosed will have  
46 no material bearing on the discharge of the reporting person's official  
47 duties;

48 j. Permit any person required to file a financial disclosure statement  
49 to request an exemption from any requirement to report one or more items  
50 of information which pertain to such person's spouse or unemancipated  
51 children which item or items may be exempted by the commission upon a  
52 finding that the reporting individual's spouse, on his or her own behalf  
53 or on behalf of an unemancipated child, objects to providing the infor-  
54 mation necessary to make such disclosure and that the information which  
55 would otherwise be required to be reported will have no material bearing  
56 on the discharge of the reporting person's official duties;

1 k.] Advise and assist the legislature in establishing rules and regu-  
2 lations relating to possible conflicts between private interests and  
3 official duties of present members of the legislature and legislative  
4 employees;

5 [l.] J. Receive and act PURSUANT TO ARTICLE THREE OF THE STATE ADMIN-  
6 ISTRATIVE PROCEDURE ACT on complaints regarding persons subject to its  
7 jurisdiction alleging a possible violation of section seventy-three,  
8 seventy-three-a or seventy-four of the public officers law, and conduct  
9 such investigations and proceedings as are authorized and necessary to  
10 carry out the provisions of this section. In connection with such inves-  
11 tigation, the commission may administer oaths or affirmations, subpoena  
12 witnesses, compel their attendance and require the production of any  
13 books or records which it may deem relevant or material;

14 [m.] K. Accept and act upon, as if it were a sworn complaint, any  
15 referral from another state oversight body indicating that a violation  
16 of section seventy-three, SEVENTY-THREE-A or seventy-four of the public  
17 officers law may have occurred involving persons subject to the juris-  
18 diction of the commission;

19 [n.] L. Upon written request from any person who is subject to the  
20 jurisdiction of the commission and the requirements of sections seven-  
21 ty-three, seventy-three-a and seventy-four of the public officers law,  
22 render formal advisory opinions on the requirements of said provisions.  
23 A formal opinion rendered by the commission, until and unless amended or  
24 revoked, shall be binding on the commission in any subsequent proceeding  
25 concerning the person who requested the opinion and who acted in good  
26 faith, unless material facts were omitted or misstated by the person in  
27 the request for an opinion. Such opinion may also be relied upon by such  
28 person, and may be introduced and shall be a defense in any criminal or  
29 civil action;

30 [o.] M. Issue and publish generic advisory opinions covering questions  
31 frequently posed to the commission, or questions common to a class or  
32 defined category of persons, or that will tend to prevent undue repe-  
33 tition of requests or undue complication, and which are intended to  
34 provide general guidance and information to persons subject to the  
35 commission's jurisdiction;

36 [p.] N. Develop educational materials and training with regard to  
37 legislative ethics for members of the legislature and legislative  
38 employees; and

39 [q.] O. Prepare an annual report to the governor and legislature  
40 summarizing the activities of the commission during the previous year  
41 and recommending any changes in the laws governing the conduct of  
42 persons subject to the jurisdiction of the commission, or the rules,  
43 regulations and procedures governing the commission's conduct. Such  
44 report shall include: (i) a listing by assigned number of each complaint  
45 and referral received which alleged a possible violation within its  
46 jurisdiction, including the current status of each complaint, and (ii)  
47 where a matter has been resolved, the date and nature of the disposition  
48 and any sanction imposed[, subject to the confidentiality requirements  
49 of this section]. Such annual report shall not contain any information  
50 for which disclosure is not permitted pursuant to subdivision fourteen  
51 of this section.

52 8. The commission, or the executive director and staff of the commis-  
53 sion if responsibility regarding such financial disclosure statements  
54 filed by MEMBERS OF THE LEGISLATURE AND legislative employees has been  
55 delegated, shall inspect all financial disclosure statements filed with  
56 the commission to ascertain whether any person subject to the reporting

1 requirements of subdivision six of section seventy-three or section  
2 seventy-three-a of the public officers law has failed to file such a  
3 statement, has filed a deficient statement or has filed a statement  
4 which reveals a possible violation of section seventy-three, seventy-  
5 three-a or seventy-four of the public officers law. THE COMMISSION,  
6 EXECUTIVE DIRECTOR OR STAFF OF THE COMMISSION MAY REEXAMINE ANY PREVI-  
7 OUSLY SUBMITTED FINANCIAL DISCLOSURE STATEMENT THAT HAS BEEN FILED WITH-  
8 IN THE PAST FIVE YEARS IF NEW INFORMATION HAS COME TO THE ATTENTION OF  
9 THE COMMISSION WHICH MAY REVEAL A POSSIBLE VIOLATION OF SECTION SEVEN-  
10 TY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

11 9. If a person required to file a financial disclosure statement with  
12 the commission has failed to file a financial disclosure statement or  
13 has filed a deficient statement, the commission shall notify the report-  
14 ing person in writing, state the failure to file or detail the deficien-  
15 cy, provide the person with a fifteen day period to cure the deficiency,  
16 and advise the person of the penalties for failure to comply with the  
17 reporting requirements. Such notice shall be confidential. If the person  
18 fails to make such filing or fails to cure the deficiency within the  
19 specified time period, the commission shall send a notice of delinquen-  
20 cy: (a) to the reporting person; (b) in the case of a senator, to the  
21 temporary president of the senate, and if a member of assembly, to the  
22 speaker of the assembly; and (c) in the case of a legislative employee,  
23 to the appointing authority for such person and to the temporary presi-  
24 dent of the senate and/or the speaker of the assembly, as the case may  
25 be, who has jurisdiction over such appointing authority. Such notice of  
26 delinquency may be sent at any time during the reporting person's  
27 service as a member of the legislature or legislative employee or while  
28 a candidate for member of the legislature, or within one year after  
29 separation from such service or the termination of such candidacy. The  
30 jurisdiction of the commission, when acting pursuant to subdivision  
31 eleven of this section with respect to financial disclosure, shall  
32 continue notwithstanding that the reporting person separates from state  
33 service or terminates his or her candidacy, provided the commission  
34 notifies such person of the alleged failure to file or deficient filing  
35 pursuant to this subdivision.

36 10. a. If a reporting person has filed a statement which reveals a  
37 possible violation of section seventy-three, seventy-three-a or seven-  
38 ty-four of the public officers law, or the commission receives a refer-  
39 ral from another state oversight body, OR THE COMMISSION RECEIVES OR  
40 DISCOVERS NEW INFORMATION THAT REVEALS A POSSIBLE VIOLATION OF SECTION  
41 SEVENTY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS  
42 LAW, or the commission receives a sworn complaint alleging such a  
43 violation by a reporting person or a legislative employee subject to the  
44 provisions of such laws, or if the commission determines on its own  
45 initiative to investigate a possible violation by a reporting person or  
46 a legislative employee subject to the provisions of such laws, the  
47 commission shall notify the reporting person in writing, describe the  
48 possible or alleged violation thereof and provide the person with a  
49 fifteen day period in which to submit a written response setting forth  
50 information relating to the activities cited as a possible or alleged  
51 violation of law. If the commission thereafter makes a determination  
52 that further inquiry is justified, it shall give the reporting person an  
53 opportunity to be heard. THE COMMISSION SHALL REVIEW AND MAKE AN AFFIR-  
54 MATIVE DETERMINATION ON SUCH POSSIBLE VIOLATION WITHIN THIRTY DAYS OF  
55 SUCH REPORTING INDIVIDUAL'S WRITTEN RESPONSE. THE COMMISSION MAY EXTEND  
56 SUCH THIRTY DAY PERIOD OF TIME ONCE FOR AN ADDITIONAL THIRTY DAYS. The

1 commission shall also inform the reporting individual of its rules  
2 regarding the conduct of adjudicatory proceedings and appeals and the  
3 due process procedural mechanisms available to such individual. If the  
4 commission determines at any stage of the proceeding, that there is no  
5 violation or that any potential conflict of interest violation has been  
6 rectified, it shall so advise the reporting person and the complainant,  
7 if any. All of the foregoing proceedings shall be confidential.

8 b. If the commission determines that there is reasonable cause to  
9 believe that a violation has occurred, OR THAT A REQUIRED FINANCIAL  
10 DISCLOSURE STATEMENT HAS NOT BEEN FILED ON A TIMELY BASIS AFTER ALL  
11 EXTENSIONS TO FILE HAVE BEEN EXHAUSTED, it shall send a notice of  
12 reasonable cause: (i) to the reporting person; (ii) to the complainant  
13 if any; (iii) in the case of a senator, to the temporary president of  
14 the senate, and if a member of the assembly, to the speaker of the  
15 assembly; and (iv) in the case of a legislative employee, to the  
16 appointing authority for such person and to the temporary president of  
17 the senate and/or the speaker of the assembly, as the case may be, who  
18 has jurisdiction over such appointing authority.

19 c. The jurisdiction of the commission when acting pursuant to this  
20 section shall continue notwithstanding that a member of the legislature  
21 or a legislative employee separates from state service, or a candidate  
22 for member of the legislature ceases to be a candidate, provided that  
23 the commission notifies such individual of the alleged violation of law  
24 pursuant to paragraph a of this subdivision within one year from his or  
25 her separation from state service or the termination of his or her  
26 candidacy. Nothing in this section shall serve to limit the jurisdiction  
27 of the commission in enforcement of subdivision eight of section seven-  
28 ty-three of the public officers law.

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

1 conduct which constitutes a violation of subdivision twelve, fourteen or  
2 fifteen of section seventy-three or section seventy-four of the public  
3 officers law, the legislative ethics commission may, in lieu of a civil  
4 penalty, refer a violation to the appropriate prosecutor and upon such  
5 conviction, but only after such referral, such violation shall be  
6 punishable as a class A misdemeanor. A civil penalty for false filing  
7 may not be imposed hereunder in the event a category of "value" or  
8 "amount" reported hereunder is incorrect unless such reported informa-  
9 tion is falsely understated. [Notwithstanding any other provision of law  
10 to the contrary, no other penalty, civil or criminal may be imposed for  
11 a failure to file, or for a false filing, of such statement, or a  
12 violation of section seventy-three of the public officers law, except  
13 that the appointing authority may impose disciplinary action as other-  
14 wise provided by law.] The legislative ethics commission shall be deemed  
15 to be an agency within the meaning of article three of the state admin-  
16 istrative procedure act and shall adopt rules governing the conduct of  
17 adjudicatory proceedings and appeals taken pursuant to a proceeding  
18 commenced under article seventy-eight of the civil practice law and  
19 rules relating to the assessment of the civil penalties herein author-  
20 ized [and commission denials of requests for certain deletions or  
21 exemptions to be made from a financial disclosure statement as author-  
22 ized in paragraph i or paragraph j of subdivision seven of this  
23 section]. Such rules[, which shall not be subject to the promulgation  
24 and hearing requirements of the state administrative procedure act,]  
25 shall provide for due process procedural mechanisms substantially simi-  
26 lar to those set forth in such article three but such mechanisms need  
27 not be identical in terms or scope. Assessment of a civil penalty or  
28 commission denial of such a deletion [or exemption request] shall be  
29 final unless modified, suspended or vacated within thirty days of im-  
30 position, with respect to the assessment of such penalty, or unless such  
31 denial of request is reversed within such time period, and upon becoming  
32 final shall be subject to review at the instance of the affected report-  
33 ing individuals in a proceeding commenced against the legislative ethics  
34 commission, pursuant to article seventy-eight of the civil practice law  
35 and rules.

36 12. If the commission has a reasonable basis to believe that any  
37 person subject to the jurisdiction of another state oversight body may  
38 have violated section seventy-three or seventy-four of the public offi-  
39 cers law, section one hundred seven of the civil service law, or article  
40 one-A of this chapter, it shall refer such violation to such oversight  
41 body unless the commission determines that such a referral would compro-  
42 mise the prosecution or confidentiality of its investigations and, if  
43 so, shall make such a referral as soon as practicable. The referral by  
44 the commission shall include any information relating thereto coming  
45 into the custody or under the control of the commission at any time  
46 prior or subsequent to the time of the referral.

47 13. A copy of any notice of delinquency or notice of reasonable cause  
48 sent pursuant to subdivisions nine and ten of this section shall be  
49 included in the reporting person's file and be available for public  
50 inspection and copying.

51 14. a. Notwithstanding the provisions of article six of the public  
52 officers law, the only records of the commission which shall be avail-  
53 able for public inspection and copying are:

54 (1) the information set forth in an annual statement of financial  
55 disclosure filed pursuant to section seventy-three-a of the public offi-  
56 cers law [except the categories of value or amount which shall be confi-

dential, and any other item of information deleted pursuant to paragraph i of subdivision seven of this section];

(2) financial disclosure statements filed pursuant to subdivision six of section seventy-three of the public officers law;

(3) notices of delinquency sent under subdivision nine of this section;

(4) notices of reasonable cause sent under paragraph b of subdivision ten of this section;

(5) notices of civil assessment imposed under this section which shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the commission, and any sanction imposed;

(6) the terms of any settlement or compromise of a complaint or referral which includes a fine, penalty or other remedy;

(7) generic advisory opinions; and

(8) all reports required by this section.

b. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the commission shall be open to the public, except if expressly provided otherwise by this section or the commission.

15. Within one hundred twenty days of the effective date of this subdivision, the commission shall create and thereafter maintain a publicly accessible website which shall set forth the procedure for filing a complaint with the commission, and which shall contain the documents identified in subdivision fourteen of this section, other than financial disclosure statements, and any other records or information which the commission determines to be appropriate.

16. This section shall not revoke or rescind any policies, rules, regulations or advisory opinions issued by the legislative ethics committee in effect upon the effective date of this subdivision, to the extent that such regulations or opinions are not inconsistent with any laws of the state of New York. The legislative ethics commission shall undertake a comprehensive review of all such policies, rules, regulations or advisory opinions which will address the consistency of such policies, rules, regulations or advisory opinions with the laws of the state of New York. The legislative ethics commission shall, before April first, two thousand eight, report to the governor and legislature regarding such review and shall propose any regulatory changes and issue any advisory opinions necessitated by such review.

17. Separability clause. If any part or provision of this section or the application thereof to any person is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the application thereof to any other person, but shall be confined to such part or provision.

S 3. Section 73 of the public officers law is amended by adding two new subdivisions 14-a and 14-b to read as follows:

14-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOURTEEN OF THIS SECTION, NO MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, AS DEFINED BY PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE-A OF THIS ARTICLE, SHALL PARTICIPATE IN ANY DECISION TO HIRE, PROMOTE, PROCESS EMPLOYMENT PAPERWORK FOR OR HAVE KNOWLEDGE OF THE PROSPECTIVE EMPLOYMENT OR CHANGE OF EMPLOYMENT STATUS OF ANY RELATIVE FOR ANY COMPENSATED POSITION AT, FOR OR WITHIN THE SAME LEGISLATIVE CHAMBER WHICH EMPLOYS SUCH MEMBER OR LEGISLATIVE EMPLOYEE. THE PROVISIONS OF



1 THIS SUBDIVISION SHALL NOT APPLY TO PERSONS TO WHICH PARAGRAPH (B) OF  
2 SUBDIVISION FOURTEEN OF THIS SECTION APPLIES.

3 14-B. IN ADDITION TO THE INFORMATION INCLUDED IN THE ANNUAL FINANCIAL  
4 STATEMENT OF FINANCIAL DISCLOSURE PROVIDED FOR IN SECTION  
5 SEVENTY-THREE-A OF THIS ARTICLE, EVERY MEMBER OF THE LEGISLATURE AND  
6 LEGISLATIVE EMPLOYEE SHALL DISCLOSE THE NAMES OF ALL RELATIVES WHO ARE  
7 EMPLOYED BY THE LEGISLATURE AND THE DEGREE OF THEIR RELATIONSHIP.

8 S 4. Paragraphs a, b, d and g of subdivision 3 of section 74 of the  
9 public officers law, as amended by chapter 1012 of the laws of 1965, are  
10 amended to read as follows:

11 a. No officer or employee of a state agency, member of the legislature  
12 or legislative employee should accept, NOR RETAIN UPON ACCEPTANCE OF  
13 EMPLOYMENT BY THE LEGISLATURE, other employment which [will] MAY REASON-  
14 ABLY impair his OR HER independence of judgment in the exercise of his  
15 OR HER official duties.

16 b. No officer or employee of a state agency, member of the legislature  
17 or legislative employee should accept employment or engage in any busi-  
18 ness or professional activity which [will] MAY REASONABLY require him OR  
19 HER to disclose confidential information which he OR SHE has gained by  
20 reason of his OR HER official position or authority.

21 d. No officer or employee of a state agency, member of the legislature  
22 or legislative employee should use or attempt to use his OR HER official  
23 position to secure unwarranted privileges or exemptions for himself,  
24 HERSELF, HIS OR HER RELATIVE, AS DEFINED IN PARAGRAPH (M) OF SUBDIVISION  
25 ONE OF SECTION SEVENTY-THREE OF THIS ARTICLE, or others.

26 g. An officer or employee of a state agency, MEMBER OF THE LEGISLATURE  
27 OR LEGISLATIVE EMPLOYEE should abstain from making personal investments  
28 in enterprises which he OR SHE has reason to believe may be directly  
29 involved in decisions to be made by him OR HER or which will otherwise  
30 create substantial conflict between his OR HER duty in the public inter-  
31 est and his OR HER private interest.

32 S 5. The nine members of the legislative ethics commission holding  
33 office immediately prior to the effective date of this act are hereby  
34 removed from their positions as such members, and nine new members shall  
35 be appointed in accordance with section 80 of the legislative law, as  
36 amended by section two of this act.

37 S 6. This act shall take effect January 1, 2010.