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

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I N S E N A T E

May 21, 2010

Introduced by Sens. STEWART-COUSINS, KLEIN, KRUEGER, ONORATO, PERALTA, STAVISKY -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to audits by the state comptroller of certain organizations controlled by local government entities

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

Section 1. Section 34 of the general municipal law, as amended by chapter 233 of the laws of 2006, is amended to read as follows:

S 34. Powers and duties of examiners. 1. The comptroller and each examiner of municipal affairs shall have power to examine into the financial affairs of every such municipal corporation, industrial development agency, district, [fire company as defined in section two hundred four-a of this chapter,] agency and activity [and], ANY FIRE COMPANY AS DEFINED IN SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER, AND ANY OTHER ORGANIZATION, EXCEPT A PUBLIC CORPORATION, THAT IS DIRECTLY OR INDIRECTLY CONTROLLED BY ONE OR MORE OF ANY SUCH MUNICIPAL CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES. AN ORGANIZATION SHALL BE DEEMED UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES WHEN, AMONG OTHER CIRCUMSTANCES, THE LAW OR DOCUMENTS ESTABLISHING THE ORGANIZATION'S INTERNAL GOVERNANCE PROVIDE FOR ONE OR MORE OFFICERS OR EMPLOYEES OF ANY SUCH MUNICIPAL CORPORATION, INDUSTRIAL DEVELOPMENT AGENCY, DISTRICT OR AGENCY, ACTING IN THEIR OFFICIAL CAPACITIES, TO: (A) SELECT A MAJORITY OF A QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY OR THE ORGANIZATION'S CHIEF EXECUTIVE OFFICER; (B) CONSTITUTE A MAJORITY OF THE VOTING STRENGTH THAT SELECTS EITHER A MAJORITY OF A QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY OR THE ORGANIZATION'S CHIEF EXECUTIVE OFFICER; OR (C) SERVE EX OFFICIO AS EITHER: (I) A MAJORITY OF A QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY; (II) THE ORGANIZATION'S CHIEF EXECUTIVE OFFICER; OR (III) A PARTNER IN THE ORGANIZATION. AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPO-

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

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RATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES SHALL ALSO INCLUDE ANY OTHER ORGANIZATION THAT IS CONTROLLED BY SUCH ORGANIZATION.

2. IN CONNECTION WITH ANY EXAMINATION AUTHORIZED BY SUBDIVISION ONE OF THIS SECTION, THE COMPTROLLER AND EACH EXAMINER OF MUNICIPAL AFFAIRS SHALL HAVE POWER to administer an oath to any person whose testimony may be required, and to compel the appearance and attendance of such person for the purpose of any such examination and investigation, and the production of books and papers. In the case of a municipal corporation, industrial development agency, or school district, no such person shall be compelled to appear or be examined elsewhere than within such municipal corporation, industrial development agency, or school district. In the case of any district other than a school district, no such person may be compelled to appear or be examined elsewhere than within the town or one of the towns in which such district or portion thereof is located. In the case of an urban renewal agency, no such person shall be compelled to appear or be examined outside the municipal corporation wherein such agency is established. In the case of a fire company, no such person shall be compelled to appear or be examined outside the area served by the company. In the case of an activity, no such person shall be compelled to appear outside the area served by the activity. IN THE CASE OF AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES, NO SUCH PERSON SHALL BE COMPELLED TO APPEAR OR TO BE EXAMINED OUTSIDE THE COUNTY IN WHICH THE ORGANIZATION HAS ITS PRINCIPAL HEADQUARTERS. Willful false swearing in such examination shall be perjury and shall be punishable as such.

S 2. This act shall take effect immediately.