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I N A S S E M B L Y

March 23, 2012

Introduced by M. of A. MAGNARELLI -- (at request of the State Comptroller) -- read once and referred to the Committee on Local Governments

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

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

1 Section 1. Section 34 of the general municipal law, as amended by
2 chapter 233 of the laws of 2006, is amended to read as follows:
3 S 34. Powers and duties of examiners. 1. The comptroller and each
4 examiner of municipal affairs shall have power to examine into the
5 financial affairs of every such municipal corporation, industrial devel-
6 opment agency, district, [fire company as defined in section two hundred
7 four-a of this chapter,] agency and activity [and], ANY FIRE COMPANY AS
8 DEFINED IN SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER, AND ANY OTHER
9 ORGANIZATION, EXCEPT A STATEWIDE ASSOCIATION OF LOCAL GOVERNMENTS OR
10 LOCAL GOVERNMENT OFFICIALS, THAT IS CONTROLLED BY ONE OR MORE OF ANY
11 SUCH MUNICIPAL CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS
12 OR AGENCIES. AN ORGANIZATION SHALL BE DEEMED UNDER THE CONTROL OF ONE
13 OR MORE MUNICIPAL CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES,
14 DISTRICTS OR AGENCIES WHEN ONE OR MORE INDIVIDUALS WHO SERVE AS OFFICERS
15 OR EMPLOYEES OF ANY SUCH MUNICIPAL CORPORATION, INDUSTRIAL DEVELOPMENT
16 AGENCY, DISTRICT OR AGENCY: (A) SELECT EITHER A MAJORITY OF THE ORGAN-
17 IZATION'S HIGHEST POLICY-MAKING BODY OR THE ORGANIZATION'S CHIEF EXECU-
18 TIVE OFFICER; (B) CONSTITUTE A MAJORITY OF THE VOTING STRENGTH THAT
19 SELECTS EITHER A MAJORITY OF THE ORGANIZATION'S HIGHEST POLICY-MAKING
20 BODY OR THE ORGANIZATION'S CHIEF EXECUTIVE OFFICER; OR (C) SERVE AS:
21 (I) A MAJORITY OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY; (II) IN
22 HIS OR HER OFFICIAL CAPACITY, THE ORGANIZATION'S CHIEF EXECUTIVE OFFI-
23 CER; OR (III) IN HIS OR HER OFFICIAL CAPACITY, A PARTNER IN THE ORGAN-
24 IZATION. AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL
25 CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES

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

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1 SHALL ALSO INCLUDE ANY OTHER ORGANIZATION THAT IS CONTROLLED BY SUCH
2 ORGANIZATION.

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

27 3. FOR PURPOSES OF THIS SECTION, THE TERM "A MAJORITY OF THE ORGANIZA-
28 TION'S HIGHEST POLICY-MAKING BODY" SHALL MEAN A MAJORITY OF THE WHOLE
29 NUMBER OF POSITIONS COMPRISING SUCH BODY, PROVIDED, HOWEVER, THAT IF THE
30 DOCUMENTS ESTABLISHING THE ORGANIZATION'S INTERNAL GOVERNANCE ALLOW SUCH
31 BODY TO ACT BY A MAJORITY OF A QUORUM, THEN SUCH TERM SHALL MEAN A
32 MAJORITY OF THE QUORUM.

33 S 2. This act shall take effect immediately.