

7539

I N S E N A T E

May 31, 2012

Introduced by COMMITTEE ON RULES -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general municipal law, in relation to conflicts of interest of municipal officers and employees, codes of ethics and boards of ethics; to amend chapter 946 of the laws of 1964 amending the general municipal law and other laws relating to conflicts of interest of municipal officers and employees, in relation to permitting local codes of ethics to prohibit activities expressly permitted by article 18 of the general municipal law; and to repeal paragraphs (d) and (e) of subdivision 3 of section 806 and section 813 of the general municipal law, relating to the temporary state commission on local government ethics

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

1 Section 1. Subdivision 3 of section 800 of the general municipal law,
2 as amended by chapter 1043 of the laws of 1965, is amended to read as
3 follows:
4 3. "Interest" means a direct or indirect pecuniary or material benefit
5 accruing to a municipal officer or employee, OR HIS OR HER SPOUSE, as
6 the result of a contract with the municipality which such officer or
7 employee serves. For the purposes of this article a municipal officer or
8 employee shall be deemed to have an interest in the contract of (a) his
9 OR HER spouse, minor children and dependents, except a contract of
10 employment with the municipality which such officer or employee serves,
11 (b) a firm, partnership or association of which such officer or
12 employee, OR HIS OR HER SPOUSE, is a member or employee, (c) a corporation of which such officer or employee, OR HIS OR HER SPOUSE, is an officer, director or employee and (d) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee, OR HIS OR HER SPOUSE.
13 S 2. Section 801 of the general municipal law, as amended by chapter
14 1043 of the laws of 1965, is amended to read as follows:
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 S 801. Conflicts of interest prohibited. Except as provided in section
2 eight hundred two of this chapter, (1) no municipal officer or employee
3 shall have an interest in any contract with the municipality of which he
4 OR SHE is an officer or employee, when such officer or employee, indi-
5 vidually or as a member of a board, has the power or duty to (a) negoti-
6 ate, prepare, authorize or approve the contract or authorize or approve
7 payment thereunder, (b) audit bills or claims under the contract, or (c)
8 appoint an officer or employee who has any of the powers or duties set
9 forth above [and]; (2) no chief fiscal officer, treasurer, or his OR HER
10 deputy or employee, shall have an interest in a bank or trust company
11 designated as a depository, paying agent, registration agent or for
12 investment of funds of the municipality of which he OR SHE is an officer
13 or employee; AND (3) NO MUNICIPAL OFFICER OR EMPLOYEE WHOSE SERVICE TO A
14 MUNICIPALITY INCLUDES RENDITION OF PROFESSIONAL SERVICES REQUIRING
15 ADMISSION TO THE PRACTICE OF LAW SHALL (A) HAVE AN INTEREST IN ANY
16 CONTRACT FOR RENDITION OF LEGAL SERVICES TO THE MUNICIPALITY, UNLESS (I)
17 THE CONTRACT IS AWARDED ON THE BASIS OF A COMPETITIVE PROCESS UNDERTAKEN
18 IN ACCORDANCE WITH THE MUNICIPALITY'S PROCUREMENT POLICIES AND PROCE-
19 DURES ADOPTED PURSUANT TO SECTION ONE HUNDRED FOUR-B OF THIS CHAPTER,
20 AND (II) THE MUNICIPALITY HAS THE ADVICE OF INDEPENDENT COUNSEL WITH
21 RESPECT TO THE ADVISABILITY OF THE PROVISIONS OF THE CONTRACT, OR (B)
22 COMPENSATE ANY PERSON OR ORGANIZATION FROM HIS OR HER PERSONAL RESOURCES
23 TO RENDER LEGAL SERVICES TO THE MUNICIPALITY. The provisions of this
24 section shall in no event be construed to preclude the payment of lawful
25 compensation and necessary expenses of any municipal officer or employee
26 in one or more positions of public employment, the holding of which is
27 not prohibited by law.

28 S 3. Paragraphs b and j of subdivision 1 of section 802 of the general
29 municipal law, paragraph b as amended by chapter 1043 of the laws of
30 1965 and paragraph j as added by chapter 364 of the laws of 1996, are
31 amended to read as follows:

32 b. A contract with a person, firm, corporation or association in which
33 a municipal officer or employee has an interest which is prohibited
34 solely by reason of HIS OR HER employment, OR HIS OR HER SPOUSE'S
35 EMPLOYMENT, as an officer or employee thereof, if the remuneration of
36 such employment will not be directly affected as a result of such
37 contract and the duties of such employment do not directly involve the
38 procurement, preparation or performance of any part of such contract;

39 j. Purchases or public work by a municipality, other than a county,
40 located wholly or partly within a county with a population of two
41 hundred thousand or less pursuant to a contract in which a member of the
42 governing body or board has a prohibited interest, where:

43 (1) the member of the governing body or board is elected OR APPOINTED
44 and serves WITH OR without salary OR OTHER COMPENSATION;

45 (2) the purchases OR PUBLIC WORK, in the aggregate, are less than
46 [five] TEN thousand dollars in one fiscal year and:

47 (I) the governing body or board has followed its procurement policies
48 and procedures adopted in accordance with the provisions of section one
49 hundred four-b of this chapter and the procurement process indicates
50 that the contract is with the lowest dollar offer[;], OR

51 (II) THE PURCHASES, IN THE AGGREGATE, ARE LESS THAN TEN THOUSAND
52 DOLLARS IN ONE FISCAL YEAR, CANNOT BE PROCURED FROM ANOTHER SUPPLIER
53 LOCATED WITHIN THE MUNICIPALITY, AND THE NEXT CLOSEST SUPPLIER IS
54 LOCATED MORE THAN FIVE MILES DRIVING DISTANCE FROM THE MUNICIPALITY BY
55 WAY OF THE MOST DIRECT ROUTE USING PUBLIC HIGHWAYS, ROADS OR STREETS;
56 AND

(3) the contract for the purchases or public work is approved by resolution of the body or board by the affirmative vote of each member of the body or board except the interested member who shall abstain.

S 4. Paragraph a of subdivision 2 of section 802 of the general municipal law, as amended by chapter 1019 of the laws of 1970, is amended to read as follows:

a. A contract with a corporation in which a municipal officer or employee has an interest by reason of stockholdings when less than five per centum of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee AND HIS OR HER SPOUSE EITHER JOINTLY OR SEVERALLY;

S 5. Section 805-a of the general municipal law, as added by chapter 1019 of the laws of 1970 and subdivision 1 as amended by chapter 813 of the laws of 1987, is amended to read as follows:

S 805-a. [Certain action prohibited] ADDITIONAL STATEWIDE STANDARDS OF ETHICAL CONDUCT. 1. No municipal officer or employee shall: a. directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part;

b. disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interests;

c. receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee; or

d. receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

2. A. EXCEPT AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, NO MUNICIPAL OFFICER OR EMPLOYEE SHALL PARTICIPATE IN ANY OFFICIAL DECISION OR TAKE ANY OFFICIAL ACTION WITH RESPECT TO ANY MATTER REQUIRING THE EXERCISE OF DISCRETION, INCLUDING PARTICIPATING IN OFFICIAL DISCUSSIONS AND VOTING ON THE MATTER, WHEN HE OR SHE KNOWS OR HAS REASON TO BELIEVE THAT ACTION OR INACTION ON THE MATTER COULD CONFER A DIRECT OR INDIRECT FINANCIAL OR MATERIAL BENEFIT ON HIMSELF OR HERSELF, A RELATIVE, OR ANY PRIVATE ORGANIZATION IN WHICH THE MUNICIPAL OFFICER OR EMPLOYEE IS DEEMED TO HAVE AN INTEREST.

B. THIS SUBDIVISION SHALL NOT BE CONSTRUED AS PROHIBITING:

I. PERFORMANCE OF A MINISTERIAL ACT, WHICH FOR THE PURPOSES OF THIS SECTION SHALL MEAN AN ADMINISTRATIVE ACT CARRIED OUT IN A PRESCRIBED MANNER NOT ALLOWING FOR SUBSTANTIAL PERSONAL DISCRETION;

II. PARTICIPATION IN ANY OFFICIAL DECISION OR OFFICIAL ACTION TAKEN BY A BOARD OR SIMILAR BODY WHEN PARAGRAPH A OF THIS SUBDIVISION WOULD PROHIBIT ONE OR MORE MEMBERS OF THE BOARD OR BODY FROM PARTICIPATING AND THE REMAINING MEMBERS OF THE BOARD OR BODY ARE INSUFFICIENT IN NUMBER OR

1 LACK SUFFICIENT VOTING STRENGTH TO MAKE SUCH DECISION OR TAKE SUCH
2 ACTION; OR

3 III. PARTICIPATION IN ANY OFFICIAL DECISION OR OFFICIAL ACTION TAKEN
4 BY A MUNICIPAL OFFICER OR EMPLOYEE, INDIVIDUALLY, WHEN THE MATTER CANNOT
5 BE LAWFULLY DELEGATED OR ASSIGNED TO ANOTHER PERSON.

6 C. WHENEVER PARAGRAPH A OF THIS SUBDIVISION PROHIBITS A MUNICIPAL
7 OFFICER OR EMPLOYEE FROM PARTICIPATING IN AN OFFICIAL DECISION OR TAKING
8 OFFICIAL ACTION, SUCH MUNICIPAL OFFICER OR EMPLOYEE SHALL DISCLOSE
9 PUBLICLY THE FACTS AND CIRCUMSTANCES REQUIRING RECUSAL. WHENEVER THE
10 PROHIBITION IN PARAGRAPH A OF THIS SUBDIVISION DOES NOT APPLY BECAUSE OF
11 THE APPLICABILITY OF SUBPARAGRAPH II OR SUBPARAGRAPH III OF PARAGRAPH B
12 OF THIS SUBDIVISION, THE MUNICIPAL OFFICER OR EMPLOYEE SHALL DISCLOSE
13 PUBLICLY THE FACTS AND CIRCUMSTANCES THAT WOULD OTHERWISE REQUIRE RECUSAL
14 UNDER PARAGRAPH A OF THIS SUBDIVISION.

15 D. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "RELATIVE" SHALL MEAN A
16 SPOUSE, PARENT, STEP-PARENT, SIBLING, STEP-SIBLING, SIBLING'S SPOUSE,
17 CHILD, STEP-CHILD, UNCLE, AUNT, NEPHEW, NIECE, FIRST COUSIN, OR HOUSE-
18 HOLD MEMBER OF A MUNICIPAL OFFICER OR EMPLOYEE, AND INDIVIDUALS HAVING
19 ANY OF THESE RELATIONSHIPS TO THE SPOUSE OF THE OFFICER OR EMPLOYEE.

20 E. COMPLIANCE WITH THIS SUBDIVISION SHALL NOT CONSTITUTE AN EXCEPTION
21 TO SECTION EIGHT HUNDRED ONE OF THIS ARTICLE, NOR BE CONSTRUED AS CURING
22 A VIOLATION OF THAT SECTION.

23 3. A. EXCEPT AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, NO MUNIC-
24 IPAL OFFICER OR EMPLOYEE SHALL USE OR PERMIT THE USE OF MUNICIPAL PROP-
25 erty OR RESOURCES FOR PERSONAL OR PRIVATE PURPOSES.

26 B. THIS SUBDIVISION SHALL NOT BE CONSTRUED AS PROHIBITING:

27 I. ANY USE OF MUNICIPAL PROPERTY OR RESOURCES AUTHORIZED BY LAW OR
28 MUNICIPAL POLICY CONSISTENT WITH LAW;

29 II. THE USE OF MUNICIPAL PROPERTY OR RESOURCES FOR PERSONAL OR PRIVATE
30 PURPOSES WHEN PROVIDED TO A MUNICIPAL OFFICER OR EMPLOYEE AS PART OF HIS
31 OR HER COMPENSATION; OR

32 III. THE OCCASIONAL, MINIMAL, NON-BUSINESS AND NON-PARTISAN USE OF
33 MUNICIPAL OFFICE EQUIPMENT AND SUPPLIES, SUCH AS TELEPHONES, COMPUTERS,
34 COPIERS, PAPER AND PENS, FOR PERSONAL MATTERS AT NO OR NOMINAL COST TO
35 THE MUNICIPALITY.

36 C. FOR PURPOSES OF THIS SUBDIVISION, "PROPERTY OR RESOURCES" SHALL
37 INCLUDE, BUT NOT BE LIMITED TO, MONEY, FACILITIES, FURNISHINGS, MACHIN-
38 ERY, APPARATUS, EQUIPMENT, SUPPLIES AND LETTERHEAD.

39 4. In addition to any penalty contained in any other provision of law,
40 any person who shall knowingly and intentionally violate this section
41 may be fined, suspended or removed from office or employment in the
42 manner provided by law.

43 S 6. The section heading of section 806 of the general municipal law,
44 as amended by chapter 1019 of the laws of 1970, is amended to read as
45 follows:

46 S 806. [Code] MUNICIPAL CODES of ethics.

47 S 7. Paragraph (a) of subdivision 1 of section 806 of the general
48 municipal law, as amended by chapter 238 of the laws of 2006, is amended
49 to read as follows:

50 (a) The governing body of each county, city, town, village, school
51 district [and], fire district AND IMPROVEMENT DISTRICT GOVERNED BY ARTI-
52 CLE THIRTEEN OF THE TOWN LAW shall, and the governing body of any other
53 municipality may, by local law, ordinance or resolution, adopt a code of
54 ethics setting forth for the guidance of its officers and employees the
55 standards of conduct reasonably expected of them. Notwithstanding any
56 other provision of this article to the contrary, a fire district code of

1 ethics shall also apply to the volunteer members of the fire district
2 fire department. Codes of ethics shall provide standards for officers
3 and employees with respect to disclosure of interest in legislation
4 before the local governing body, holding of investments in conflict with
5 official duties, private employment in conflict with official duties,
6 future employment, NEPOTISM, and such other standards relating to the
7 conduct of officers and employees as may be deemed advisable. Such codes
8 may: (I) regulate or prescribe conduct which is not expressly prohibited
9 by this article but may not authorize conduct otherwise prohibited[.
10 Such codes may provide for the prohibition of]; (II) PROHIBIT CONTRACTS
11 OR conduct [or] THAT IS EITHER EXPRESSLY OR BY IMPLICATION PERMITTED BY
12 SECTION EIGHT HUNDRED TWO OR SECTION EIGHT HUNDRED FIVE-A OF THIS ARTI-
13 CLE; AND (III) PROVIDE FOR THE disclosure of information and the classi-
14 fication of employees or officers. THE GOVERNING BODY OF EACH MUNICI-
15 PALITY THAT ADOPTS A CODE OF ETHICS SHALL BIENNIALY REVIEW AND, WHEN
16 DEEMED NECESSARY, UPDATE ITS CODE OF ETHICS.

17 S 8. Subdivision 2 of section 806 of the general municipal law, as
18 amended by chapter 238 of the laws of 2006, is amended to read as
19 follows:

20 2. [The] UPON THE ADOPTION OR AMENDMENT OF A CODE OF ETHICS BY A MUNI-
21 CIPALITY, THE chief executive officer of [a] THE municipality [adopting
22 a code of ethics] shall cause a copy [thereof] OF SUCH CODE OR AMENDMENT
23 to be distributed PROMPTLY to every officer and employee of his OR HER
24 municipality AND TO THE BOARD OF ETHICS FOR THE MUNICIPALITY. IN ADDI-
25 TION, SUCH CHIEF EXECUTIVE OFFICER SHALL CAUSE A COMPLETE AND CURRENT
26 COPY OF THE MUNICIPALITY'S CODE OF ETHICS TO BE POSTED ON THE MUNICI-
27 PALITY'S WEB SITE, IF THE MUNICIPALITY MAINTAINS A WEB SITE, AND
28 DISTRIBUTED (A) TO EVERY PERSON WHO IS ELECTED OR APPOINTED TO SERVE AS
29 AN OFFICER OR EMPLOYEE OF THE MUNICIPALITY PROMPTLY FOLLOWING SUCH
30 PERSON'S ELECTION OR APPOINTMENT, AND (B) TO ALL THE OFFICERS AND
31 EMPLOYEES OF THE MUNICIPALITY AT LEAST ONCE EVERY FIVE YEARS. EVERY
32 MUNICIPAL OFFICER AND EMPLOYEE RECEIVING A COPY OF A CODE OF ETHICS OR
33 AMENDMENT THERETO SHALL ACKNOWLEDGE PROMPTLY IN WRITING THAT HE OR SHE
34 HAS RECEIVED AND READ THE CODE OF ETHICS OR AMENDMENT AND SUCH ACKNOWL-
35 EDGEMENT SHALL BE FILED WITH THE CLERK OR SECRETARY OF THE MUNICIPALITY.
36 The BOARD OF fire [district] commissioners OF A FIRE DISTRICT shall ALSO
37 cause a copy of the fire district's code of ethics, INCLUDING ANY AMEND-
38 MENTS THERETO, to be posted publicly and conspicuously in each building
39 under such district's control. Failure to distribute any such copy or
40 failure of any officer or employee to receive such copy shall have no
41 effect on the duty of compliance with such code, nor the enforcement of
42 provisions thereof.

43 S 9. The opening paragraph and paragraphs (a) and (b) of subdivision 3
44 of section 806 of the general municipal law, as amended by chapter 813
45 of the laws of 1987, are amended to read as follows:

46 [Until January first, nineteen hundred ninety-one, the] THE clerk of
47 each municipality [shall file in the office of the state comptroller and
48 on or after January first, nineteen hundred ninety-one, the clerk of
49 each municipality and of each political subdivision, as defined in
50 section eight hundred ten of this article, shall file with the temporary
51 state commission on local government ethics established by section eight
52 hundred thirteen of this article, if such temporary state commission be
53 in existence, and in all events] AND OF EACH POLITICAL SUBDIVISION, AS
54 DEFINED IN SECTION EIGHT HUNDRED TEN OF THIS ARTICLE, shall maintain as
55 a record subject to public inspection:

1 (a) a copy of [any] THE MUNICIPALITY'S OR POLITICAL SUBDIVISION'S code
2 of ethics or any amendments to any code of ethics [adopted within thirty
3 days after the adoption of such code or such amendment],

4 (b) a statement that such municipality or political subdivision has
5 established a board of ethics, in accordance with section eight hundred
6 eight OF THIS ARTICLE and/or pursuant to other law, charter, code, local
7 law, ordinance or resolution, and the composition of such board, [within
8 thirty days after the establishment of such board.], AND

9 S 10. Paragraphs (d) and (e) of subdivision 3 of section 806 of the
10 general municipal law are REPEALED.

11 S 11. Section 808 of the general municipal law, as amended by chapter
12 1019 of the laws of 1970 and subdivision 5 as added by chapter 813 of
13 the laws of 1987, is amended to read as follows:

14 S 808. Boards of ethics. 1. [The governing body of any county may
15 establish a county board of ethics and appropriate moneys for mainte-
16 nance and personal services in connection therewith. The members of such
17 board of ethics shall be appointed by such governing body except in the
18 case of a county operating under an optional or alternative form of
19 county government or county charter, in which case the members shall be
20 appointed by the county executive or county manager, as the case may be,
21 subject to confirmation by such governing body. Such board of ethics
22 shall consist of at least three members, a majority of whom shall not be
23 officers or employees of such county or municipalities wholly or
24 partially located in such county and at least one of whom shall be an
25 elected or appointed officer or employee of the county or a municipality
26 located within such county. The members of such board shall receive no
27 salary or compensation for their services as members of such board and
28 shall serve at the pleasure of the appointing authority] (A) THE GOVERN-
29 ING BODY OF (I) EVERY COUNTY, (II) EVERY CITY, TOWN AND VILLAGE HAVING A
30 POPULATION OF FIFTY THOUSAND OR MORE, AND (III) EVERY BOARD OF COOPER-
31 ATIVE EDUCATIONAL SERVICES (BOCES) SHALL ESTABLISH A BOARD OF ETHICS.
32 THEREAFTER, THE GOVERNING BODY SHALL APPROPRIATE ANNUALLY SUCH MONEYS AS
33 MAY BE NECESSARY FOR THE BOARD'S CONTRACTUAL AND PERSONAL SERVICE
34 EXPENDITURES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION,
35 SUCH BOARD SHALL HAVE JURISDICTION TO ACT ONLY IN RELATION TO THE OFFI-
36 CERS AND EMPLOYEES OF THE COUNTY, CITY, TOWN, VILLAGE OR BOCES THAT
37 ESTABLISHED THE BOARD.

38 (B) THE GOVERNING BODY OF EVERY MUNICIPALITY NOT DESCRIBED IN PARA-
39 GRAPH (A) OF THIS SUBDIVISION IS AUTHORIZED, BUT NOT REQUIRED, TO ESTAB-
40 LISH A BOARD OF ETHICS. IF SUCH GOVERNING BODY ESTABLISHES A BOARD OF
41 ETHICS, THE GOVERNING BODY SHALL APPROPRIATE ANNUALLY SUCH MONEYS AS MAY
42 BE NECESSARY FOR THE BOARD'S CONTRACTUAL AND PERSONAL SERVICE EXPENDI-
43 TURES. SUCH BOARD SHALL HAVE JURISDICTION TO ACT ONLY IN RELATION TO
44 THE OFFICERS AND EMPLOYEES OF THE MUNICIPALITY THAT ESTABLISHED THE
45 BOARD.

46 (C) TWO OR MORE MUNICIPALITIES NOT DESCRIBED IN PARAGRAPH (A) OF THIS
47 SUBDIVISION MAY ENTER INTO, AMEND, CANCEL, AND TERMINATE AGREEMENTS FOR
48 THE ESTABLISHMENT OF A COOPERATIVE BOARD OF ETHICS. SUCH AGREEMENTS
49 SHALL BE CONSISTENT WITH THE REQUIREMENTS OF ARTICLE FIVE-G OF THIS
50 CHAPTER, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, INCLUDING THAT
51 (I) THE POWER TO ENTER INTO SUCH AGREEMENTS SHALL EXTEND TO ALL MUNICI-
52 PALITIES AS DEFINED IN THIS ARTICLE, AND SHALL NOT BE LIMITED TO MUNICI-
53 PAL CORPORATIONS AND DISTRICTS AS DEFINED IN ARTICLE FIVE-G OF THIS
54 CHAPTER, AND (II) THE DURATION OF SUCH AGREEMENTS SHALL NOT BE LIMITED
55 TO A MAXIMUM TERM OF FIVE YEARS. FOLLOWING THE ESTABLISHMENT OF A COOP-
56 ERATIVE BOARD OF ETHICS, THE GOVERNING BODIES OF THE MUNICIPALITIES THAT

1 ARE PARTIES TO THE AGREEMENT ESTABLISHING THE BOARD SHALL APPROPRIATE
2 ANNUALLY SUCH MONEYS AS MAY BE NECESSARY FOR THE BOARD'S CONTRACTUAL AND
3 PERSONAL SERVICE EXPENDITURES, IN SUCH AMOUNTS OR PROPORTION AS MAY BE
4 PROVIDED IN THE AGREEMENT. A COOPERATIVE BOARD OF ETHICS SHALL BE THE
5 BOARD OF ETHICS OF EACH MUNICIPALITY THAT IS A PARTY TO THE AGREEMENT
6 ESTABLISHING THE BOARD, AND SHALL HAVE JURISDICTION TO ACT ONLY IN
7 RELATION TO THE OFFICERS OR EMPLOYEES OF SUCH MUNICIPALITIES.

8 (D) IN THE EVENT THAT A MUNICIPALITY DESCRIBED IN PARAGRAPH (B) OF
9 THIS SUBDIVISION DOES NOT ESTABLISH A BOARD OF ETHICS AND IS NOT A PARTY
10 TO AN AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS:

11 (I) IN THE CASE OF A MUNICIPALITY OTHER THAN A SCHOOL DISTRICT, THE
12 BOARD OF ETHICS OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED SHALL
13 SERVE AS THE BOARD OF ETHICS OF SUCH MUNICIPALITY AND HAVE JURISDICTION
14 TO ACT IN RELATION TO THE OFFICERS AND EMPLOYEES OF THAT MUNICIPALITY,
15 PROVIDED THAT IF SUCH A MUNICIPALITY IS LOCATED IN MORE THAN ONE COUNTY,
16 THE GOVERNING BOARD OF THE MUNICIPALITY BY RESOLUTION SHALL DESIGNATE
17 THE BOARD OF ETHICS OF ONE OF THE COUNTIES TO SERVE AS THE BOARD OF
18 ETHICS OF THE MUNICIPALITY;

19 (II) IN THE CASE OF A SCHOOL DISTRICT, OTHER THAN THE CITY SCHOOL
20 DISTRICT OF A CITY HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOU-
21 SAND OR MORE, THE BOARD OF ETHICS ESTABLISHED BY THE BOCES OF THE SUPER-
22 VISORY DISTRICT IN WHICH THE SCHOOL DISTRICT IS LOCATED SHALL SERVE AS
23 THE BOARD OF ETHICS OF SUCH SCHOOL DISTRICT AND HAVE JURISDICTION TO ACT
24 IN RELATION TO THE OFFICERS AND EMPLOYEES OF SUCH SCHOOL DISTRICT; AND

25 (III) IN THE CASE OF A CITY SCHOOL DISTRICT OF A CITY HAVING A POPU-
26 LATION OF ONE HUNDRED TWENTY-FIVE THOUSAND OR MORE, THE BOARD OF ETHICS
27 ESTABLISHED BY THE CITY IN WHICH THE SCHOOL DISTRICT IS LOCATED SHALL
28 SERVE AS THE BOARD OF ETHICS OF SUCH SCHOOL DISTRICT AND HAVE JURISDIC-
29 TION TO ACT IN RELATION TO THE OFFICERS AND EMPLOYEES OF SUCH SCHOOL
30 DISTRICT.

31 (E) IN THE CASE OF A MUNICIPALITY THAT HAS NOT ESTABLISHED A BOARD OF
32 ETHICS AND IS NOT A PARTY TO AN AGREEMENT ESTABLISHING A COOPERATIVE
33 BOARD OF ETHICS:

34 (I) THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY, ANNUALLY, WITHIN
35 THIRTY DAYS FOLLOWING THE START OF THE MUNICIPALITY'S FISCAL YEAR, SHALL
36 NOTIFY THE APPROPRIATE COUNTY, BOCES OR CITY BOARD OF ETHICS THAT SUCH
37 BOARD SHALL SERVE AS THE BOARD OF ETHICS FOR THE MUNICIPALITY. SUCH
38 NOTICE SHALL BE ACCOMPANIED BY A COMPLETE AND CURRENT COPY OF THE
39 MUNICIPALITY'S CODE OF ETHICS. IF OFFICERS AND EMPLOYEES OF THE MUNICI-
40 PALITY ARE SUBJECT TO ANNUAL FINANCIAL DISCLOSURE REQUIREMENTS IMPOSED
41 IN ACCORDANCE WITH THIS ARTICLE, SUCH NOTICE SHALL ALSO BE ACCOMPANIED
42 BY A COMPLETE AND CURRENT COPY OF ALL LOCAL LAWS, ORDINANCES, RESOL-
43 UTIONS AND REGULATIONS ADOPTED BY THE MUNICIPALITY RELATING TO THE IMPO-
44 SITION, ADMINISTRATION AND ENFORCEMENT OF THE FILING REQUIREMENT. AT THE
45 TIME SUCH NOTICE IS GIVEN, THE CHIEF EXECUTIVE OFFICER SHALL ALSO CAUSE
46 A COPY OF THE NOTICE TO BE POSTED ON THE MUNICIPALITY'S WEB SITE, IF THE
47 MUNICIPALITY MAINTAINS A WEB SITE, AND IN EACH PUBLIC BUILDING UNDER THE
48 JURISDICTION OF THE MUNICIPALITY IN A PLACE CONSPICUOUS TO ITS OFFICERS
49 AND EMPLOYEES.

50 (II) THE GOVERNING BODY OF THE MUNICIPALITY, ANNUALLY, WITHIN THIRTY
51 DAYS FOLLOWING THE START OF THE MUNICIPALITY'S FISCAL YEAR, SHALL
52 APPOINT A MUNICIPAL REPRESENTATIVE TO THE APPROPRIATE COUNTY, BOCES OR
53 CITY BOARD OF ETHICS. THE PERSON APPOINTED AS MUNICIPAL REPRESENTATIVE
54 SHALL BE A RESIDENT OF THE MUNICIPALITY, AND SHALL BE KNOWLEDGEABLE WITH
55 RESPECT TO THE MUNICIPALITY'S CODE OF ETHICS AND THE MUNICIPALITY'S
56 ANNUAL FINANCIAL DISCLOSURE REQUIREMENTS, IF ANY. THE MUNICIPAL REPRE-

1 SENTATIVE SHALL RECEIVE NOTICE OF, AND BE ENTITLED TO PARTICIPATE, AS A
2 NON-VOTING MEMBER, IN ALL MEETINGS, PROCEEDINGS, DELIBERATIONS AND OTHER
3 ACTIVITIES OF THE BOARD THAT PERTAIN TO AN OFFICER OR EMPLOYEE OF THE
4 MUNICIPALITY. A MUNICIPAL REPRESENTATIVE SHALL RECEIVE NO SALARY OR
5 COMPENSATION FOR HIS OR HER SERVICES, BUT WITHIN AMOUNTS APPROPRIATED
6 SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
7 PERFORMANCE OF HIS OR HER OFFICIAL DUTIES.

8 (F) IN THE EVENT THAT A BOARD OF ETHICS ESTABLISHED BY A COUNTY, BOCES
9 OR CITY SERVES AS THE BOARD OF ETHICS FOR ANOTHER MUNICIPALITY, AND SUCH
10 MUNICIPALITY SHALL EITHER ESTABLISH A BOARD OF ETHICS OR BECOME A PARTY
11 TO AN AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS, THE CHIEF
12 EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL NOTIFY THE COUNTY, BOCES OR
13 CITY BOARD OF ETHICS OF THE DATE AS OF WHICH SUCH BOARD SHALL NO LONGER
14 SERVE AS THE BOARD OF ETHICS OF THE MUNICIPALITY. SUCH NOTICE SHALL
15 EITHER STATE THAT THE MUNICIPALITY HAS ESTABLISHED ITS OWN BOARD OF
16 ETHICS OR IDENTIFY SUCH COOPERATIVE BOARD OF ETHICS. AT THE TIME SUCH
17 NOTICE IS GIVEN, THE CHIEF EXECUTIVE OFFICER SHALL ALSO CAUSE A COPY OF
18 THE NOTICE TO BE POSTED ON THE MUNICIPALITY'S WEB SITE, IF THE MUNICI-
19 PALITY MAINTAINS A WEB SITE, AND IN EACH PUBLIC BUILDING UNDER THE
20 JURISDICTION OF THE MUNICIPALITY IN A PLACE CONSPICUOUS TO ITS OFFICERS
21 AND EMPLOYEES. PROMPTLY AFTER THE DATE SPECIFIED IN SUCH NOTICE, THE
22 COUNTY, BOCES OR CITY BOARD OF ETHICS SHALL TRANSFER TO THE MUNICIPAL OR
23 COOPERATIVE BOARD OF ETHICS ALL PENDING MATTERS AND RECORDS RELATING TO
24 THE OFFICERS AND EMPLOYEES OF THE MUNICIPALITY; PROVIDED, HOWEVER, THAT
25 SUCH COUNTY, BOCES, OR CITY BOARD OF ETHICS SHALL HAVE THE DISCRETION TO
26 RETAIN ANY PENDING MATTER AND RECORDS RELATING THERETO UNTIL SUCH TIME
27 AS THE MATTER IS RESOLVED.

28 (G) EVERY BOARD OF ETHICS SHALL CONSIST OF AT LEAST THREE MEMBERS, A
29 MAJORITY OF WHOM SHALL NOT BE MUNICIPAL OFFICERS OR EMPLOYEES. THE
30 MEMBERS OF EVERY BOARD OF ETHICS SHALL SERVE FOR A FIXED TERM OF OFFICE,
31 NOT TO EXCEED FIVE YEARS. THE LENGTH OF SUCH TERM OF OFFICE SHALL BE
32 DETERMINED BY THE MUNICIPAL GOVERNING BODY THAT ESTABLISHES THE BOARD OF
33 ETHICS OR SPECIFIED IN THE AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF
34 ETHICS, PROVIDED THAT SUCH GOVERNING BODY OR AGREEMENT MAY PROVIDE FOR
35 THE INITIAL APPOINTMENTS TO THE BOARD TO BE MADE FOR STAGGERED TERMS.
36 APPOINTMENTS TO THE BOARD SHALL BE MADE AS FOLLOWS:

37 (I) THE MEMBERS OF A COUNTY BOARD OF ETHICS SHALL BE APPOINTED BY THE
38 GOVERNING BODY OF THE COUNTY EXCEPT IN THE CASE OF A COUNTY OPERATING
39 UNDER AN OPTIONAL OR ALTERNATIVE FORM OF COUNTY GOVERNMENT OR COUNTY
40 CHARTER, IN WHICH CASE THE MEMBERS SHALL BE APPOINTED BY THE COUNTY
41 EXECUTIVE, COUNTY MANAGER OR COUNTY ADMINISTRATOR, AS THE CASE MAY BE,
42 SUBJECT TO CONFIRMATION BY SUCH GOVERNING BODY.

43 (II) THE MEMBERS OF A BOARD OF ETHICS ESTABLISHED BY A MUNICIPALITY
44 OTHER THAN A COUNTY SHALL BE APPOINTED BY THE GOVERNING BODY OF THE
45 MUNICIPALITY OR BY SUCH PERSON OR BODY AS MAY BE DESIGNATED BY THE
46 GOVERNING BODY OF THE MUNICIPALITY.

47 (III) THE MEMBERS OF A COOPERATIVE BOARD OF ETHICS SHALL BE APPOINTED
48 IN THE MANNER PROVIDED IN THE AGREEMENT ESTABLISHING THE BOARD.

49 (H) THE MEMBERS OF EVERY BOARD OF ETHICS SHALL RECEIVE NO SALARY OR
50 COMPENSATION FOR THEIR SERVICES AS MEMBERS OF SUCH BOARD, BUT WITHIN
51 AMOUNTS APPROPRIATED SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY
52 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES, PROVIDED,
53 THAT THE PROVISIONS OF SECTION SEVENTY-SEVEN-B OF THIS CHAPTER SHALL
54 APPLY TO THE MEMBERS OF A BOARD OF ETHICS.

55 2. [The] EVERY board OF ETHICS shall render advisory opinions to THE
56 officers and employees [of municipalities wholly or partly within the

1 county] UNDER THE BOARD'S JURISDICTION with respect to this article and
2 any code of ethics adopted pursuant hereto. Such advisory opinions shall
3 be rendered pursuant to the written request of any such officer or
4 employee under such rules and regulations as the board may prescribe
5 [and shall have the advice of counsel employed by the board, or if none,
6 the county attorney]. In addition, [it] THE BOARD may make recommenda-
7 tions with respect to the drafting and adoption of a code of ethics or
8 amendments thereto upon the request of the governing body of any munici-
9 pality [in the county] FOR WHICH THE BOARD SERVES AS THE MUNICIPALITY'S
10 BOARD OF ETHICS, AND PERFORM SUCH OTHER FUNCTIONS RELATING TO THE ADMIN-
11 ISTRATION OF THIS ARTICLE AS MAY BE AUTHORIZED BY THE GOVERNING BODY OR
12 AGREEMENT ESTABLISHING THE BOARD INCLUDING, BUT NOT LIMITED TO, PROVID-
13 ING ETHICS TRAINING TO THE OFFICERS AND EMPLOYEES UNDER THE BOARD'S
14 JURISDICTION.

15 2-A. (A) NOTWITHSTANDING ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE
16 OR RESOLUTION TO THE CONTRARY, EVERY BOARD OF ETHICS SHALL HAVE THE
17 POWER TO INVESTIGATE POTENTIAL VIOLATIONS OF THIS ARTICLE AND A CODE OF
18 ETHICS ADOPTED PURSUANT TO THIS ARTICLE INVOLVING THE MUNICIPAL OFFICERS
19 AND EMPLOYEES UNDER THE BOARD'S JURISDICTION; PROVIDED, HOWEVER, THAT
20 THIS SUBDIVISION SHALL NOT APPLY TO A JUDGE OR JUSTICE OF THE UNIFIED
21 COURT SYSTEM. THE BOARD MAY INITIATE SUCH AN INVESTIGATION EITHER UPON
22 ITS OWN MOTION OR UPON RECEIPT OF A SWORN COMPLAINT ALLEGING SUCH A
23 VIOLATION.

24 (B) AT ANY TIME AFTER RECEIVING A SWORN COMPLAINT OR INITIATING AN
25 INVESTIGATION, THE BOARD MAY MAKE A FINAL DETERMINATION THAT THERE HAS
26 BEEN NO VIOLATION OF THIS ARTICLE OR A CODE OF ETHICS. IN SUCH CASE, THE
27 BOARD SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH DETERMINATION TO THE
28 MUNICIPAL OFFICER OR EMPLOYEE WHO WAS THE SUBJECT OF THE INVESTIGATION
29 AND THE COMPLAINANT, IF ANY.

30 (C) AFTER INITIATING AN INVESTIGATION, BUT BEFORE MAKING A PRELIMINARY
31 DETERMINATION THAT THERE HAS BEEN A VIOLATION OF THIS ARTICLE OR A CODE
32 OF ETHICS, THE BOARD SHALL PROVIDE TO THE MUNICIPAL OFFICER OR EMPLOYEE
33 WHO IS THE SUBJECT OF THE INVESTIGATION WRITTEN NOTICE DESCRIBING THE
34 POTENTIAL VIOLATION, AND PROVIDE THE PERSON WITH AT LEAST A FIFTEEN DAY
35 PERIOD TO SUBMIT A WRITTEN RESPONSE SETTING FORTH INFORMATION RELATING
36 TO THE ACTIVITIES CITED AS THE POTENTIAL VIOLATION.

37 (D) AFTER THE EXPIRATION OF THE PERIOD OF TIME FOR SUBMISSION OF A
38 WRITTEN RESPONSE PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, THE
39 BOARD MAY MAKE A PRELIMINARY DETERMINATION THAT THERE HAS BEEN A
40 VIOLATION OF THIS ARTICLE OR A VIOLATION OF A CODE OF ETHICS. IN SUCH
41 CASE, THE BOARD SHALL PROVIDE WRITTEN NOTIFICATION OF THE PRELIMINARY
42 DETERMINATION TO THE MUNICIPAL OFFICER OR EMPLOYEE WHO IS THE SUBJECT OF
43 THE INVESTIGATION AND PROVIDE THAT PERSON WITH AN ADDITIONAL OPPORTUNITY
44 TO BE HEARD. THEREAFTER, IF THE BOARD MAKES A FINAL DETERMINATION THAT
45 THERE HAS BEEN A VIOLATION, THE BOARD SHALL PROVIDE WRITTEN NOTIFICATION
46 OF SUCH FINAL DETERMINATION TO THE MUNICIPAL OFFICER OR EMPLOYEE WHO WAS
47 THE SUBJECT OF THE INVESTIGATION, THE COMPLAINANT, IF ANY, AND THE
48 APPOINTING AUTHORITY FOR SUCH PERSON OR, IF THE PERSON SERVES IN AN
49 ELECTIVE OFFICE, THE GOVERNING BODY OF THE MUNICIPALITY FOR WHICH SUCH
50 PERSON SERVES.

51 (E) IN CASES WHERE THE BOARD FINDS THAT A MUNICIPAL OFFICER OR EMPLOY-
52 EE HAS WILLFULLY AND KNOWINGLY VIOLATED THIS ARTICLE OR A CODE OF
53 ETHICS, THE BOARD MAY: (I) ISSUE A REPRIMAND; (II) ASSESS A CIVIL PENAL-
54 TY ON BEHALF OF THE MUNICIPALITY IN AN AMOUNT NOT TO EXCEED ONE THOUSAND
55 DOLLARS FOR EACH SUCH SPECIFIC VIOLATION; (III) RECOMMEND TO THE
56 APPOINTING AUTHORITY FOR SUCH PERSON, IF ANY, SUSPENSION WITH OR WITHOUT

PAY, DEMOTION, TERMINATION OR SUCH OTHER DISCIPLINARY ACTION AS THE BOARD DEEMS APPROPRIATE; AND (IV) IN THE CASE OF A VIOLATION POTENTIALLY ENCOMPASSED WITHIN SECTION EIGHT HUNDRED FIVE OF THIS ARTICLE, REFER THE MATTER TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. ASSESSMENT OF A CIVIL PENALTY SHALL BE FINAL UNLESS MODIFIED, SUSPENDED OR VACATED WITHIN THIRTY DAYS OF IMPOSITION, AND UPON BECOMING FINAL SHALL BE SUBJECT TO REVIEW AT THE INSTANCE OF SUCH PERSON IN A PROCEEDING AGAINST THE BOARD BROUGHT PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

(F) EVERY BOARD OF ETHICS SHALL ADOPT RULES TO ENSURE PROCEDURAL DUE PROCESS IN THE CONDUCT OF ADJUDICATORY PROCEEDINGS HELD PURSUANT TO THIS SUBDIVISION. THE BOARD SHALL CAUSE A COPY OF SUCH RULES TO BE PROVIDED TO ANY PERSON WHO IS THE SUBJECT OF AN ADJUDICATORY PROCEEDING, AND SUCH RULES SHALL BE AVAILABLE TO THE PUBLIC FOR INSPECTION AND COPYING.

2-B. NOTWITHSTANDING ANY PROVISION IN ARTICLE SIX OR SEVEN OF THE PUBLIC OFFICERS LAW TO THE CONTRARY:

(A) ALL DOCUMENTS AND RECORDS OF A BOARD OF ETHICS RELATING TO AN INVESTIGATION OR AN ADJUDICATORY PROCEEDING CONDUCTED PURSUANT TO SUBDIVISION TWO-A OF THIS SECTION SHALL BE CONFIDENTIAL AND SHALL NOT BE AVAILABLE TO THE PUBLIC, EXCEPT THAT FINAL DETERMINATIONS OF THE BOARD WITH RESPECT TO WHETHER THERE HAS BEEN A VIOLATION OF THIS ARTICLE OR A CODE OF ETHICS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND COPYING;

(B) ADVISORY OPINIONS RENDERED BY A BOARD OF ETHICS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND COPYING, PROVIDED THAT INFORMATION IDENTIFYING THE MUNICIPAL OFFICER OR EMPLOYEE REQUESTING THE OPINION SHALL BE REDACTED FROM THE COPY MADE AVAILABLE TO THE PUBLIC; AND

(C) NO MEETING OF A BOARD OF ETHICS OR PORTION THEREOF RELATING TO THE CONDUCT OF AN INDIVIDUAL MUNICIPAL OFFICER OR EMPLOYEE AND NO ADJUDICATORY PROCEEDING CONDUCTED PURSUANT TO SUBDIVISION TWO-A OF THIS SECTION SHALL BE OPEN TO THE PUBLIC, UNLESS THE AFFECTED MUNICIPAL OFFICER OR EMPLOYEE REQUESTS AND THE BOARD AGREES TO PERMIT PUBLIC ATTENDANCE AT THE MEETING OR PROCEEDING.

3. [The governing body of any municipality other than a county may establish a local board of ethics and, where such governing body is so authorized, appropriate moneys for maintenance and personal services in connection therewith. A local board shall have all the powers and duties of and shall be governed by the same conditions as a county board of ethics, except that it shall act only with respect to officers and employees of the municipality that has established such board or of its agencies. The members of a local board shall be appointed by such person or body as may be designated by the governing body of the municipality to serve at the pleasure of the appointing authority and such board shall consist of at least three members, a majority of whom are not otherwise officers or employees of such municipality. Such board shall include at least one member who is an elected or appointed municipal officer or employee.

4. The county board of ethics shall not act with respect to the officers and employees of any municipality located within such county or agency thereof, where such municipality has established its own board of ethics, except that the local board may at its option refer matters to the county board.

5.] A BOARD OF ETHICS SHALL HAVE THE ADVICE OF COUNSEL EMPLOYED BY THE BOARD OR, IF NONE, THE ATTORNEY FOR THE MUNICIPALITY THAT ESTABLISHED THE BOARD OR, IN THE CASE OF A COOPERATIVE BOARD OF ETHICS, SUCH MUNICIPAL ATTORNEY AS MAY BE DESIGNATED IN THE AGREEMENT ESTABLISHING THE COOPERATIVE BOARD OF ETHICS.

1 4. THE board of ethics of a political subdivision (as defined in
2 section eight hundred ten of this article) and THE BOARD OF ETHICS of
3 any other municipality[,] which [is required by local law, ordinance or
4 resolution to be, or which pursuant to legal authority, in practice is,
5 the repository for completed annual statements of financial disclosure
6 shall notify the temporary state commission on local government ethics
7 if such commission be in existence and if not, shall file a statement
8 with the clerk of its municipality, that it is the authorized repository
9 for completed annual statements of financial disclosure and that on
10 account thereof, such completed statements will be filed with it and not
11 with the commission. Should any local law, ordinance or resolution be
12 adopted which provides for the filing of such completed annual state-
13 ments with the temporary state commission on local government ethics
14 instead of with such board of ethics, such board of ethics shall notify
15 the temporary state commission on local government ethics of that fact]
16 REQUIRES FILING OF ANNUAL STATEMENTS OF FINANCIAL DISCLOSURE PURSUANT TO
17 THIS ARTICLE, SHALL RECEIVE, REVIEW FOR COMPLETENESS, AND SERVE AS
18 REPOSITORY FOR SUCH ANNUAL STATEMENTS AND ENFORCE SUCH FILING REQUIRE-
19 MENT.

20 5. EACH MEMBER OF EVERY BOARD OF ETHICS SHALL ATTEND AND SUCCESSFULLY
21 COMPLETE A TRAINING COURSE APPROVED BY THE STATE COMPTROLLER WITHIN TWO
22 HUNDRED SEVENTY DAYS OF HIS OR HER APPOINTMENT OR REAPPOINTMENT TO THE
23 BOARD; PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE
24 DEEMED TO REQUIRE A MEMBER OF A BOARD OF ETHICS TO SUCCESSFULLY COMPLETE
25 SUCH TRAINING COURSE MORE THAN ONCE. THE COURSE SHALL CONTAIN TRAINING
26 RELATED TO THE PROVISIONS OF THIS ARTICLE, CODES OF ETHICS, ANNUAL
27 FINANCIAL DISCLOSURE AND DECISIONAL LAW RELATING TO CONFLICTS OF INTER-
28 EST AND ETHICS AND SUCH OTHER TOPICS AS THE COMPTROLLER DEEMS ADVISABLE.
29 WHEN APPROVED IN ADVANCE OF ATTENDANCE BY THE GOVERNING BODY OF THE
30 MUNICIPALITY ESTABLISHING THE BOARD OR IN THE MANNER PROVIDED IN AN
31 AGREEMENT ESTABLISHING A COOPERATIVE BOARD OF ETHICS, THE ACTUAL AND
32 NECESSARY EXPENSES INCURRED BY A BOARD MEMBER IN SUCCESSFULLY COMPLETING
33 THE TRAINING REQUIRED BY THIS SECTION SHALL BE A CHARGE AGAINST THE
34 MUNICIPALITY OR THE MUNICIPALITIES PARTICIPATING IN THE COOPERATIVE
35 BOARD OF ETHICS AS PROVIDED IN SUCH AGREEMENT.

36 6. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A CITY HAVING A
37 POPULATION OF ONE MILLION OR MORE OR TO A COUNTY, SCHOOL DISTRICT, OR
38 OTHER PUBLIC AGENCY OR FACILITY THEREIN.

39 S 12. Subdivision 9 of section 810 of the general municipal law, as
40 added by chapter 813 of the laws of 1987, is amended to read as follows:

41 9. The term "appropriate body" or "appropriate bodies" shall mean[:

42 (a) in the case of any political subdivision which has created or
43 hereafter creates a board of ethics which is in existence at the time an
44 annual statement of financial disclosure is due, and which has been
45 designated by local law, ordinance or resolution to be the repository
46 for such completed statements, such board of ethics;

47 (b) in the case of any political subdivision which has created or
48 hereafter creates a board of ethics which is in existence at the time an
49 annual statement of financial disclosure is due, and which has not been
50 designated by local law, ordinance or resolution to be the repository
51 for such completed statements, the temporary state commission on local
52 government ethics;

53 (c) in the case of any political subdivision for which no board of
54 ethics is in existence at the time an annual statement of financial
55 disclosure is due, the temporary state commission on local government

1 ethics] THE BOARD OF ETHICS OF ANY POLITICAL SUBDIVISION OR
2 MUNICIPALITY.

3 S 13. Paragraphs (c) and (d) of subdivision 1 of section 811 of the
4 general municipal law, as added by chapter 813 of the laws of 1987, are
5 amended to read as follows:

6 (c) The governing body of a political subdivision or any other county,
7 city, town or village which requires any local or municipal officer or
8 employee or any local elected official or any local political party
9 official to complete and file either of such annual statements of finan-
10 cial disclosure shall have, possess, exercise and enjoy all the rights,
11 powers and privileges attendant thereto which are necessary and proper
12 to the enforcement of such requirement, including but not limited to,
13 the promulgation of rules and regulations pursuant to local law, ordi-
14 nance or resolution, which rules or regulations may provide for the
15 public availability of items of information to be contained on such form
16 of statement of financial disclosure, the determination of penalties for
17 violation of such rules or regulations, and such other powers as [are]
18 WERE conferred upon the temporary state commission on local government
19 ethics pursuant to THE FORMER section eight hundred thirteen of this
20 article, AS ADDED BY CHAPTER EIGHT HUNDRED THIRTEEN OF THE LAWS OF NINE-
21 TEEN HUNDRED EIGHTY-SEVEN, as such local governing body determines are
22 warranted under the circumstances existing in its county, city, town or
23 village.

24 (d) The local law, ordinance or resolution, if and when adopted, shall
25 provide for the annual filing of completed statements with [either] the
26 [temporary state commission on local government ethics or with the board
27 of ethics of the political subdivision or other municipality] APPROPRI-
28 ATE BODY, and shall contain the procedure for filing such statements and
29 the date by which such filing shall be required. [If the board of ethics
30 is designated as the appropriate body, then such] SUCH local law, ordi-
31 nance or resolution shall confer upon the [board] appropriate BODY
32 authority to enforce such filing requirement, including the authority to
33 promulgate rules and regulations of the same import as those which the
34 FORMER temporary state commission on local government ethics [enjoys
35 under section eight hundred thirteen of this article] COULD HAVE ADOPTED
36 UNDER FORMER SECTION EIGHT HUNDRED THIRTEEN OF THIS ARTICLE, AS ADDED BY
37 CHAPTER EIGHT HUNDRED THIRTEEN OF THE LAWS OF NINETEEN HUNDRED
38 EIGHTY-SEVEN. Any such local law, ordinance or resolution shall author-
39 ize exceptions with respect to complying with timely filing of such
40 disclosure statements due to justifiable cause or undue hardship. The
41 appropriate body shall prescribe rules and regulations related to such
42 exceptions with respect to extensions and additional periods of time
43 within which to file such statement including the imposition of a time
44 limitation upon such extensions.

45 S 14. Paragraph (a) of subdivision 1 of section 812 of the general
46 municipal law, as added by chapter 813 of the laws of 1987 and the open-
47 ing paragraph as amended by chapter 85 of the laws of 2004, is amended
48 to read as follows:

49 (a) Any political subdivision or other county, city, town or village
50 to which all of the provisions of this section are made applicable,
51 whether as the result of the provisions contained in subdivision two of
52 section eight hundred eleven of this article or as a result of an
53 election to be subject to the provisions of this section as permitted by
54 subdivision two of this section, shall require (i) each of its local
55 elected officials and local officers and employees, (ii) each local
56 political party official and (iii) each candidate for local elected

1 official with respect to such political subdivision, to file an annual
2 statement of financial disclosure containing the information and in the
3 form set forth in subdivision five of this section except that disclo-
4 sure requirements for assessors who are not covered by this article
5 shall be governed by the requirements of section three hundred thirty-
6 six of the real property tax law. Such statement shall be filed on or
7 before the fifteenth day of May with respect to the preceding calendar
8 year, except that:

9 (i) a person who is subject to the reporting requirements of this
10 subdivision and who timely filed with the internal revenue service an
11 application for automatic extension of time in which to file his or her
12 individual income tax return for the immediately preceding calendar or
13 fiscal year shall be required to file such financial disclosure state-
14 ment on or before May fifteenth but may, without being subjected to any
15 civil penalty on account of a deficient statement, indicate with respect
16 to any item of the disclosure statement that information with respect
17 thereto is lacking but will be supplied in a supplementary statement of
18 financial disclosure, which shall be filed on or before the seventh day
19 after the expiration of the period of such automatic extension of time
20 within which to file such individual income tax return, provided that
21 failure to file or to timely file such supplementary statement of finan-
22 cial disclosure or the filing of an incomplete or deficient supplementa-
23 ry statement of financial disclosure shall be subject to the notice and
24 penalty provisions of this section respecting annual statements of
25 financial disclosure as if such supplementary statement were an annual
26 statement;

27 (ii) [a person who is required to file an annual financial disclosure
28 statement with the temporary state commission on local government
29 ethics, and who is granted an additional period of time within which to
30 file such statement due to justifiable cause or undue hardship, in
31 accordance with required rules and regulations on the subject adopted
32 pursuant to paragraph c of subdivision nine of section eight hundred
33 thirteen of this article, shall file such statement within the addi-
34 tional period of time granted;

35 (iii)] candidates for local elected official who file designating
36 petitions for nomination at a primary election shall file such statement
37 within seven days after the last day allowed by law for the filing of
38 designating petitions naming them as candidates for the next succeeding
39 primary election;

40 [(iv)] (III) candidates for independent nomination for local elected
41 official who have not been designated by a party to receive a nomination
42 shall file such statement within seven days after the last day allowed
43 by law for the filing of independent nominating petitions naming them as
44 candidates for local elected official in the next succeeding general or
45 special or village election; and

46 [(v)] (IV) candidates for local elected official who receive the nomi-
47 nation of a party for a special election or who receive the nomination
48 of a party other than at a primary election (whether or not for an
49 uncontested office) shall file such statement within seven days after
50 the date of the meeting of the party committee at which they are nomi-
51 nated.

52 S 15. Paragraph (a) of subdivision 3 of section 812 of the general
53 municipal law, as added by chapter 813 of the laws of 1987, is amended
54 to read as follows:

55 (a) Such local law, ordinance or resolution must provide for the
56 promulgation of a form of an annual statement of financial disclosure

1 described in subdivision one of section eight hundred eleven of this
2 article for use with respect to information the governing body requires
3 to be reported for the calendar year next succeeding the year in which
4 such local law, ordinance or resolution is adopted and for use with
5 respect to information required to be reported for subsequent calendar
6 years; and shall provide for the filing of completed statements with
7 [either] the [temporary state commission on local government ethics or
8 with the board of ethics of the political subdivision or other munici-
9 pality, as specified in subdivision one of section eight hundred eleven
10 of this article] APPROPRIATE BODY.

11 S 16. Section 813 of the general municipal law is REPEALED.

12 S 17. Section 13 of chapter 946 of the laws of 1964 amending the
13 general municipal law and other laws relating to conflicts of interest
14 of municipal officers and employees, is amended to read as follows:

15 S 13. Laws superseded. The provisions of article [eighteen] 18 of the
16 general municipal law, as added by this act, shall supersede any local
17 law, charter, ordinance, resolution, rule or regulation of any munici-
18 pality to the extent that such local law, charter, ordinance, resol-
19 ution, rule or regulation is inconsistent with the provisions thereof.
20 No local law, ordinance, resolution, rule or regulation shall modify or
21 dispense with any provision of article [eighteen] 18 of the general
22 municipal law, as added by this act; provided, however, that nothing
23 [herein] contained IN THIS SECTION shall prohibit a code of ethics
24 adopted pursuant thereto from supplementing the provisions of this act
25 OR FROM BEING MORE STRINGENT THAN ARTICLE 18 OF THE GENERAL MUNICIPAL
26 LAW.

27 S 18. Notwithstanding any general, special or local law to the contra-
28 ry, the governing body of any municipality which has prior to the effec-
29 tive date of this act: (a) established a board of ethics pursuant to
30 section 808 of the general municipal law; and (b) not established a term
31 of office for the members of such board, such governing body shall
32 establish terms of office for the members of such board pursuant to
33 paragraph g of subdivision 1 of section 808 of the general municipal law
34 as added by this act to begin on a date no later than the first day of
35 the municipality's fiscal year commencing in 2013 and on such date the
36 positions on such board of ethics shall be deemed vacant, provided that
37 nothing in this section shall be construed to prohibit the reappointment
38 of an incumbent board member for such term of office.

39 S 19. Notwithstanding any general, special or local law to the contra-
40 ry, any person serving as a member of a board of ethics established
41 pursuant to section 808 of the general municipal law on the effective
42 date of this act shall successfully complete the training course
43 required by subdivision 5 of section 808 of such law as added by this
44 act within one year of the effective date of this act.

45 S 20. This act shall take effect on the first of January next succeed-
46 ing the date on which it shall have become a law; provided, however,
47 that the amendments to paragraph (d) of subdivision 1 of section 808 of
48 the general municipal law made by section eleven of this act shall take
49 effect January 1, 2014.