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I N   S E N A T E

October 3, 2012

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

AN ACT to amend the executive law, the legislative law and the public officers law, in relation to doing away with the legislative ethics commission and transferring certain duties to the joint commission on public ethics; and to repeal article 5 of the legislative law, in relation to the legislative ethics commission

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

1     Section 1. Article 5 of the legislative law is REPEALED.  
2     S 2. Section 94 of the executive law, as amended by section 6 of part  
3     A of chapter 399 of the laws of 2011, is amended to read as follows:  
4     S 94. Joint commission on public ethics; functions, powers and duties;  
5     review of financial disclosure statements; advisory opinions; investi-  
6     gation and enforcement.  
7     1. There is established within the department of state a joint commis-  
8     sion on public ethics which shall consist of [fourteen] FIVE members and  
9     shall have and exercise the powers and duties set forth in this section  
10    with respect to statewide elected officials, members of the legislature  
11    and employees of the legislature, and state officers and employees, as  
12    defined in sections seventy-three and seventy-three-a of the public  
13    officers law, candidates for statewide elected office and for the senate  
14    or assembly, and the political party chairman as that term is defined in  
15    section seventy-three-a of the public officers law, lobbyists and the  
16    clients of lobbyists as such terms are defined in article one-A of the  
17    legislative law, and individuals who have formerly held such positions,  
18    were lobbyists or clients of lobbyists, as such terms are defined in  
19    article one-A of the legislative law, or who have formerly been such  
20    candidates. This section shall not be deemed to have revoked or rescind-  
21    ed any regulations or advisory opinions issued by the FORMER legislative  
22    ethics commission, the FORMER commission on public integrity, the state  
23    ethics commission and the temporary lobbying commission in effect upon  
24    the effective date of chapter fourteen of the laws of two thousand seven  
25    which amended this section to the extent that such regulations or opin-

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

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1 ions are not inconsistent with any law of the state of New York, but  
2 such regulations and opinions shall apply only to matters over which  
3 such commissions had jurisdiction at the time such regulations and opin-  
4 ions were promulgated or issued. The commission shall undertake a  
5 comprehensive review of all such regulations and opinions, which will  
6 address the consistency of such regulations and opinions among each  
7 other and with the new statutory language, and of the effectiveness of  
8 the existing laws, regulations, guidance and ethics enforcement struc-  
9 ture to address the ethics of covered public officials and related  
10 parties. [Such review shall be conducted with the legislative ethics  
11 commission and, to the extent possible, the report's findings shall  
12 reflect the full input and deliberations of both commissions after joint  
13 consultation.] The commission shall, before February first, two thousand  
14 fifteen, report to the governor and legislature regarding such review  
15 and shall propose any regulatory or statutory changes and issue any  
16 advisory opinions necessitated by such review.

17 2. The members of the commission shall be appointed [as follows: three  
18 members shall be appointed by the temporary president of the senate,  
19 three members shall be appointed by the speaker of the assembly, one  
20 member shall be appointed by the minority leader of the senate, one  
21 member shall be appointed by the minority leader of the assembly, and  
22 six members shall be appointed] by the governor [and the lieutenant  
23 governor. In the event that a vacancy arises with respect to a member of  
24 the commission first appointed pursuant to the chapter of the laws of  
25 two thousand eleven which amended this subdivision by a legislative  
26 leader, the legislative leaders of the same political party in the same  
27 house shall appoint a member to fill such vacancy irrespective of wheth-  
28 er that legislative leader's political party is in the majority or  
29 minority. Of the members appointed by the governor and the lieutenant  
30 governor, at least three members shall be and shall have been for at  
31 least three years enrolled members of the major political party in which  
32 the governor is not enrolled. In the event of a vacancy in a position  
33 previously appointed by the governor and lieutenant governor, the gover-  
34 nor and lieutenant governor shall appoint a member of the same political  
35 party as the member that vacated that position. Prior to making their  
36 respective appointments, the governor and the lieutenant governor and  
37 the legislative leaders shall solicit and receive recommendations for  
38 appointees from the attorney general and the comptroller of the state of  
39 New York, which recommendations shall be fully and properly considered  
40 but shall not be binding] WITH THE ADVICE AND CONSENT OF THE LEGISLA-  
41 TURE, WITHOUT REGARD TO POLITICAL AFFILIATION, FROM THE LIST PROVIDED BY  
42 THE NOMINATING PANEL AS DESCRIBED IN SUBDIVISION TWO-A OF THIS SECTION.

43 No individual shall be eligible for appointment as a member of the  
44 commission who currently or within the last three years:

- 45 (i) is or has been registered as a lobbyist in New York state;  
46 (ii) is or has been a member of the New York state legislature or a  
47 statewide elected official or a commissioner of an executive agency  
48 appointed by the governor; or  
49 (iii) is or has been a political party chairman, as defined in para-  
50 graph (k) of subdivision one of section seventy-three of [this article]  
51 THE PUBLIC OFFICERS LAW.

52 No individual shall be eligible for appointment as a member of the  
53 commission who currently or within the last year is or has been a state  
54 officer or employee or legislative employee as defined in section seven-  
55 ty-three of the public officers law.

1 2-A. (A) THE GOVERNOR SHALL CREATE A NOMINATING PANEL COMPOSED OF  
2 THREE MEMBERS WHOSE SOLE FUNCTION SHALL BE TO NOMINATE PERSONS FOR  
3 CONSIDERATION BY THE GOVERNOR FOR APPOINTMENT TO THE COMMISSION. REPRE-  
4 SENTATION ON THE PANEL AND THE SELECTION OF SUCH MEMBERS SHALL BE AS  
5 FOLLOWS: ONE MEMBER SHALL BE THE CHIEF JUDGE OF THE COURT OF APPEALS OR  
6 HIS OR HER DESIGNEE; ONE MEMBER SHALL BE THE PRESIDENT OF THE NEW YORK  
7 STATE BAR ASSOCIATION OR HIS OR HER DESIGNEE; AND ONE MEMBER SHALL BE  
8 EXECUTIVE DIRECTOR OF THE NOT-FOR-PROFIT ORGANIZATION, COMMON CAUSE, OR  
9 HIS OR HER DESIGNEE.

10 3. Members of the commission shall serve for terms of five years;  
11 provided, however, that of the members first appointed by the governor  
12 [and lieutenant governor], one shall serve for one year, one shall serve  
13 for two years, one shall serve for three years, and one shall serve for  
14 four years, as designated by the governor[; the members first appointed  
15 by the temporary president of the senate and by the speaker of the  
16 assembly shall serve for four years and the members first appointed by  
17 the minority leaders of the senate and the assembly shall serve for two  
18 years].

19 4. The governor shall designate the chairman of the commission from  
20 among the members thereof, who shall serve as chairman at the pleasure  
21 of the governor. The chairman or any [eight] THREE members of the  
22 commission may call a meeting.

23 5. Any vacancy occurring on the commission shall be filled within  
24 thirty days of its occurrence in the same manner as the member whose  
25 vacancy is being filled was appointed. A person appointed to fill a  
26 vacancy occurring other than by expiration of a term of office shall be  
27 appointed for the unexpired term of the member he or she succeeds.

28 6. [Eight] THREE members of the commission shall constitute a quorum,  
29 and the commission shall have power to act by majority vote of the total  
30 number of members of the commission without vacancy except where the  
31 commission acts pursuant to subdivision thirteen, subdivision fourteen-a  
32 or subdivision fourteen-b of this section.

33 7. Members of the commission may be removed by the [appointing author-  
34 ity] GOVERNOR solely for substantial neglect of duty, gross misconduct  
35 in office, violation of the confidentiality restrictions in subdivision  
36 nine-a of this section, inability to discharge the powers or duties of  
37 office or violation of this section, after written notice and opportu-  
38 nity for a reply.

39 8. The members of the joint commission shall receive a per diem allow-  
40 ance in the sum of three hundred dollars for each day actually spent in  
41 the performance of his or her duties under this article, and, in addi-  
42 tion thereto, shall be reimbursed for all reasonable expenses actually  
43 and necessarily incurred by him or her in the performance of his or her  
44 duties under this article.

45 9. The commission shall:

46 (a) Appoint an executive director who shall act in accordance with the  
47 policies of the commission. The appointment and removal of the executive  
48 director shall be made solely by a vote of a majority of the commis-  
49 sion[, which majority shall include at least one member appointed by the  
50 governor from each of the two major political parties, and one member  
51 appointed by a legislative leader from each of the two major political  
52 parties]. The commission may delegate authority to the executive direc-  
53 tor to act in the name of the commission between meetings of the commis-  
54 sion provided such delegation is in writing, the specific powers to be  
55 delegated are enumerated, and the commission shall not delegate any  
56 decisions specified in this section that require a vote of the commis-

1 sion. The executive director shall be appointed without regard to poli-  
2 tical affiliation and solely on the basis of fitness to perform the  
3 duties assigned by this article, and shall be a qualified, independent  
4 professional. The commission may remove the executive director for  
5 neglect of duty, misconduct in office, violation of the confidentiality  
6 restrictions in subdivision nine-a of this section, or inability or  
7 failure to discharge the powers or duties of office, including the fail-  
8 ure to follow the lawful instructions of the commission;

9 (b) Appoint such other staff as are necessary to carry out its duties  
10 under this section;

11 (b-1) Review and approve a staffing plan provided and prepared by the  
12 executive director which shall contain, at a minimum, a list of the  
13 various units and divisions as well as the number of positions in each  
14 unit, titles and their duties, and salaries, as well as the various  
15 qualifications for each position including, but not limited to, educa-  
16 tion and prior experience for each position[.];

17 (c) Adopt, amend, and rescind rules and regulations to govern proce-  
18 dures of the commission, which shall include, but not be limited to, the  
19 procedure whereby a person who is required to file an annual financial  
20 disclosure statement with the commission may request an additional peri-  
21 od of time within which to file such statement, [other than members of  
22 the legislature, candidates for members of the legislature and legisla-  
23 tive employees,] due to justifiable cause or undue hardship; such rules  
24 or regulations shall provide for a date beyond which in all cases of  
25 justifiable cause or undue hardship no further extension of time will be  
26 granted;

27 (d) Adopt, amend, and rescind rules and regulations to assist appoint-  
28 ing authorities in determining which persons hold policy-making posi-  
29 tions for purposes of section seventy-three-a of the public officers law  
30 AND MAY PROMULGATE GUIDELINES TO ASSIST FIRMS, ASSOCIATIONS AND CORPO-  
31 RATIONS IN SEPARATING AFFECTED PERSONS FROM NET REVENUES FOR PURPOSES OF  
32 SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, AND  
33 PROMULGATE GUIDELINES TO ASSIST ANY FIRM, ASSOCIATION OR CORPORATION IN  
34 WHICH ANY PRESENT OR FORMER STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR  
35 EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, OR POLI-  
36 TICAL PARTY CHAIRMAN IS A MEMBER, ASSOCIATE, RETIRED MEMBER OF COUNSEL  
37 OR SHAREHOLDER, IN COMPLYING WITH THE PROVISIONS OF SUBDIVISION TEN OF  
38 SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW WITH RESPECT TO THE  
39 SEPARATION OF SUCH PRESENT OR FORMER STATEWIDE ELECTED OFFICIAL, STATE  
40 OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE,  
41 OR POLITICAL PARTY CHAIRMAN FROM THE NET REVENUES OF THE FIRM, ASSOCI-  
42 ATION OR CORPORATION. SUCH FIRM, ASSOCIATION OR CORPORATION SHALL NOT BE  
43 REQUIRED TO ADOPT THE PROCEDURES CONTAINED IN THE GUIDELINES TO ESTAB-  
44 LISH COMPLIANCE WITH SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE  
45 PUBLIC OFFICERS LAW, BUT IF SUCH FIRM, ASSOCIATION OR CORPORATION DOES  
46 ADOPT SUCH PROCEDURES, IT SHALL BE DEEMED TO BE IN COMPLIANCE WITH SUCH  
47 SUBDIVISION TEN;

48 (d-1) Adopt, amend and rescind rules and regulations defining the  
49 permissible use of and promoting the proper use of public service  
50 announcements;

51 (e) Make available forms for annual statements of financial disclosure  
52 required to be filed pursuant to SUBDIVISION SIX OF SECTION  
53 SEVENTY-THREE AND section seventy-three-a of the public officers law;

54 (f) Review financial disclosure statements in accordance with the  
55 provisions of this section, provided however, that the commission may  
56 delegate all or part of this review function to the executive director

1 who shall be responsible for completing staff review of such statements  
2 in a manner consistent with the terms of the commission's delegation;

3 (g) Receive complaints and referrals alleging violations of section  
4 seventy-three, seventy-three-a or seventy-four of the public officers  
5 law, article one-A of the legislative law or section one hundred seven  
6 of the civil service law;

7 (h) Permit any person who is required to file a financial disclosure  
8 statement with the [joint] commission [on public ethics] to request that  
9 the commission delete from the copy thereof made available for public  
10 inspection and copying one or more items of information which may be  
11 deleted by the commission upon a finding by the commission that the  
12 information which would otherwise be required to be made available for  
13 public inspection and copying will have no material bearing on the  
14 discharge of the reporting person's official duties. If such request for  
15 deletion is denied, the commission, in its notification of denial, shall  
16 inform the person of his or her right to appeal the commission's deter-  
17 mination pursuant to its rules governing adjudicatory proceedings and  
18 appeals adopted pursuant to subdivision fourteen of this section;

19 (i) Permit any person who is required to file a financial disclosure  
20 statement with the [joint] commission [on public ethics] to request an  
21 exemption from any requirement to report one or more items of informa-  
22 tion which pertain to such person's spouse or unemancipated children  
23 which item or items may be exempted by the commission upon a finding by  
24 the commission that the reporting individual's spouse, on his or her own  
25 behalf or on behalf of an unemancipated child, objects to providing the  
26 information necessary to make such disclosure and that the information  
27 which would otherwise be required to be reported will have no material  
28 bearing on the discharge of the reporting person's official duties. If  
29 such request for exemption is denied, the commission, in its notifica-  
30 tion of denial, shall inform the person of his or her right to appeal  
31 the commission's determination pursuant to its rules governing adjudica-  
32 tory proceedings and appeals adopted pursuant to subdivision fourteen of  
33 this section;

34 (i-1) Permit any person required to file a financial disclosure state-  
35 ment to request an exemption from any requirement to report the identity  
36 of a client pursuant to question 8(b) in such statement based upon an  
37 exemption set forth in that question. The reporting individual need not  
38 seek an exemption to refrain from disclosing the identity of any client  
39 with respect to any matter he or she or his or her firm provided legal  
40 representation to the client in connection with an investigation or  
41 prosecution by law enforcement authorities, bankruptcy, or domestic  
42 relations matters; in addition, clients or customers receiving medical  
43 or dental services, mental health services, residential real estate  
44 brokering services, or insurance brokering services need not be  
45 disclosed[.];

46 (j) Advise and assist any state agency in establishing rules and regu-  
47 lations relating to possible conflicts between private interests and  
48 official duties of present or former statewide elected officials and  
49 state officers and employees;

50 (k) Permit any person who has not been determined by his or her  
51 appointing authority to hold a policy-making position but who is other-  
52 wise required to file a financial disclosure statement to request an  
53 exemption from such requirement in accordance with rules and regulations  
54 governing such exemptions. Such rules and regulations shall provide for  
55 exemptions to be granted either on the application of an individual or  
56 on behalf of persons who share the same job title or employment classi-

1 fication which the commission deems to be comparable for purposes of  
2 this section. Such rules and regulations may permit the granting of an  
3 exemption where, in the discretion of the commission, the public inter-  
4 est does not require disclosure and the applicant's duties do not  
5 involve the negotiation, authorization or approval of:

6 (i) contracts, leases, franchises, revocable consents, concessions,  
7 variances, special permits, or licenses as defined in section seventy-  
8 three of the public officers law;

9 (ii) the purchase, sale, rental or lease of real property, goods or  
10 services, or a contract therefor;

11 (iii) the obtaining of grants of money or loans; or

12 (iv) the adoption or repeal of any rule or regulation having the force  
13 and effect of law;

14 (l) Prepare an annual report to the governor and legislature summariz-  
15 ing the activities of the commission during the previous year and recom-  
16 mending any changes in the laws governing the conduct of persons subject  
17 to the jurisdiction of the commission, or the rules, regulations and  
18 procedures governing the commission's conduct. Such report shall  
19 include: (i) a listing by assigned number of each complaint and referral  
20 received which alleged a possible violation within its jurisdiction,  
21 including the current status of each complaint, and (ii) where a matter  
22 has been resolved, the date and nature of the disposition and any sanc-  
23 tion imposed, subject to the confidentiality requirements of this  
24 section, provided, however, that such annual report shall not contain  
25 any information for which disclosure is not permitted pursuant to subdi-  
26 vision nineteen of this section;

27 (m) Determine a question common to a class or defined category of  
28 persons or items of information required to be disclosed, where determi-  
29 nation of the question will prevent undue repetition of requests for  
30 exemption or deletion or prevent undue complication in complying with  
31 the requirements of such section; and

32 (n) Promulgate guidelines for the commission to conduct a program of  
33 random reviews, to be carried out in the following manner: (i) annual  
34 statements of financial disclosure shall be selected for review in a  
35 manner pursuant to which the identity of any particular person whose  
36 statement is selected is unknown to the commission and its staff prior  
37 to its selection; (ii) such review shall include a preliminary examina-  
38 tion of the selected statement for internal consistency, a comparison  
39 with other records maintained by the commission, including previously  
40 filed statements and requests for advisory opinions, and examination of  
41 relevant public information; (iii) upon completion of the preliminary  
42 examination, the commission shall determine whether further inquiry is  
43 warranted, whereupon it shall notify the reporting individual in writing  
44 that the statement is under review, advise the reporting individual of  
45 the specific areas of inquiry, and provide the reporting individual with  
46 the opportunity to provide any relevant information related to the  
47 specific areas of inquiry, and the opportunity to file amendments to the  
48 selected statement on forms provided by the commission; and (iv) if  
49 thereafter sufficient cause exists, the commission shall take additional  
50 actions, as appropriate and consistent with law.

51 9-a. (a) When an individual becomes a commissioner or staff of the  
52 commission, that individual shall be required to sign a non-disclosure  
53 statement.

54 (b) Except as otherwise required or provided by law, testimony  
55 received or any other information obtained by a commissioner or staff of  
56 the commission shall not be disclosed by any such individual to any

1 person or entity outside the commission during the pendency of any  
2 matter. Any confidential communication to any person or entity outside  
3 the commission related to the matters before the commission may occur  
4 only as authorized by the commission.

5 (c) The commission shall establish procedures necessary to prevent the  
6 unauthorized disclosure of any information received by any member of the  
7 commission or staff of the commission. Any breaches of confidentiality  
8 shall be investigated by the inspector general and appropriate action  
9 shall be taken. Any commissioner or person employed by the commission  
10 who intentionally and without authorization releases confidential infor-  
11 mation received by the commission shall be guilty of a class A misdemea-  
12 nor.

13 9-b. During the period of his or her service as a commissioner of the  
14 commission, each commissioner shall refrain from making, or soliciting  
15 from other persons, any contributions to candidates for election to the  
16 offices of governor, lieutenant governor, member of the assembly or the  
17 senate, attorney general or state comptroller.

18 10. The commission shall prepare materials and design and administer  
19 an ethics training program for individuals subject to the financial  
20 disclosure requirements of section seventy-three-a of the public offi-  
21 cers law with respect to the provisions of sections seventy-three,  
22 seventy-three-a, and seventy-four of the public officers law and any  
23 other law, administrative regulation, or internal policy that is of  
24 relevance to the ethical conduct of such individuals in public service,  
25 as follows:

26 (a) The commission shall develop and administer a comprehensive ethics  
27 training course and shall designate and train instructors to conduct  
28 such training. Such course shall be designed as a two-hour program and  
29 shall include practical application of the material covered and a ques-  
30 tion-and-answer participatory segment. Unless the commission grants an  
31 extension or waiver for good cause shown, all individuals subject to the  
32 financial disclosure requirements of section seventy-three-a of the  
33 public officers law shall complete such course within two years of the  
34 effective date of the chapter of the laws of two thousand eleven which  
35 amended this section, or for those individuals elected or appointed  
36 after the effective date of the chapter of the laws of two thousand  
37 eleven which amended this section, within two years of becoming subject  
38 to the financial disclosure requirements of section seventy-three-a of  
39 the public officers law.

40 (b) The commission shall develop and administer an online ethics  
41 orientation course and shall notify all individuals newly subject to the  
42 financial disclosure requirements of section seventy-three-a of the  
43 public officers law of such course, which shall be completed by such  
44 individuals within three months of becoming subject to such require-  
45 ments, unless the commission grants an extension or waiver for good  
46 cause shown. Individuals who have completed the comprehensive ethics  
47 training course shall not be required to complete the online ethics  
48 orientation course.

49 (c) The commission shall develop and administer an ethics seminar or  
50 ethics seminars for individuals who have previously completed the  
51 comprehensive ethics training course. Such seminars shall be designed as  
52 ninety-minute programs and shall include any changes in law, regulation,  
53 or policy or in the interpretation thereof, practical application of the  
54 material covered, and a question-and-answer segment. Unless the commis-  
55 sion grants an extension or waiver for good cause shown, such individ-  
56 uals shall be scheduled to attend a seminar at least once every three

1 years after having completed the comprehensive ethics training course.  
2 In lieu of attending an ethics seminar, such individuals may complete a  
3 subsequent comprehensive ethics training program.

4 (d) The provisions of this subdivision shall be applicable to the  
5 legislature except to the extent that an ethics training program is  
6 otherwise established by the assembly or senate for their respective  
7 members and employees and such program meets or exceeds each of the  
8 requirements set forth in this section.

9 (e) On an annual basis, the joint commission [in coordination with the  
10 legislative ethics commission] shall determine the status of compliance  
11 with these training requirements by each state agency and by the senate  
12 and the assembly. Such determination shall include aggregate statistics  
13 regarding participation in such training, and shall be reported to the  
14 governor and the legislature in writing.

15 10-A. THE COMMISSION SHALL DEVELOP EDUCATIONAL MATERIALS AND TRAINING  
16 WITH REGARD TO LEGISLATIVE ETHICS FOR MEMBERS OF THE LEGISLATURE AND  
17 LEGISLATIVE EMPLOYEES INCLUDING AN ONLINE ETHICS ORIENTATION COURSE FOR  
18 NEWLY-HIRED EMPLOYEES AND, AS REQUESTED BY THE SENATE OR THE ASSEMBLY,  
19 MATERIALS AND TRAINING IN RELATION TO A COMPREHENSIVE ETHICS TRAINING  
20 PROGRAM.

21 11. The commission, or the executive director and staff of the commis-  
22 sion if responsibility therefor has been delegated, shall inspect all  
23 financial disclosure statements filed with the commission to ascertain  
24 whether any person subject to the reporting requirements of section  
25 seventy-three-a of the public officers law has failed to file such a  
26 statement, has filed a deficient statement or has filed a statement  
27 which reveals a possible violation of section seventy-three, seventy-  
28 three-a or seventy-four of the public officers law.

29 12. If a person required to file a financial disclosure statement with  
30 the commission has failed to file a disclosure statement or has filed a  
31 deficient statement, the commission shall notify the reporting person in  
32 writing, state the failure to file or detail the deficiency, provide the  
33 person with a fifteen day period to cure the deficiency, and advise the  
34 person of the penalties for failure to comply with the reporting  
35 requirements. Such notice shall be confidential. If the person fails to  
36 make such filing or fails to cure the deficiency within the specified  
37 time period, the commission shall send a notice of delinquency: (a) to  
38 the reporting person; (b) in the case of a statewide elected official,  
39 member of the legislature, or a legislative employee, to the temporary  
40 president of the senate and the speaker of the assembly; and (c) in the  
41 case of a state officer or employee, to the appointing authority for  
42 such person. Such notice of delinquency may be sent at any time during  
43 the reporting person's service as a statewide elected official, state  
44 officer or employee, member of the assembly or the senate, or a legisla-  
45 tive employee or a political party chair or while a candidate for state-  
46 wide office, or within one year after termination of such service or  
47 candidacy.

48 12-A. The jurisdiction of the commission, when acting pursuant to  
49 [subdivision fourteen of] this section [with respect to financial  
50 disclosure], shall continue notwithstanding that the [reporting] person  
51 separates from state service, or ceases to hold public or political  
52 party office, or ceases to be a candidate, provided the commission noti-  
53 fies such person of the alleged [failure to file or deficient filing  
54 pursuant to this subdivision] VIOLATION OF LAW WITHIN ONE YEAR FROM HIS  
55 OR HER SEPARATION FROM STATE SERVICE, THE TERMINATION FROM HIS OR HER  
56 OFFICE OR THE TERMINATION OF HIS OR HER CANDIDACY.



1 13. (a) Investigations. If the commission receives a sworn complaint  
2 alleging a violation of section seventy-three, seventy-three-a, or  
3 seventy-four of the public officers law, section one hundred seven of  
4 the civil service law or article one-A of the legislative law by a  
5 person or entity subject to the jurisdiction of the commission including  
6 members of the legislature and legislative employees and candidates for  
7 member of the legislature, or if a reporting individual has filed a  
8 statement which reveals a possible violation of these provisions, or if  
9 the commission determines on its own initiative to investigate a possi-  
10 ble violation, the commission shall notify the individual in writing,  
11 describe the possible or alleged violation of such laws and provide the  
12 person with a fifteen day period in which to submit a written response  
13 setting forth information relating to the activities cited as a possible  
14 or alleged violation of law. The commission shall, within forty-five  
15 calendar days after a complaint or a referral is received or an investi-  
16 gation is initiated on the commission's own initiative, vote on whether  
17 to commence a full investigation of the matter under consideration to  
18 determine whether a substantial basis exists to conclude that a  
19 violation of law has occurred. The staff of the joint commission shall  
20 provide to the members prior to such vote information regarding the  
21 likely scope and content of the investigation, and a subpoena plan, to  
22 the extent such information is available. Such investigation shall be  
23 conducted if at least [eight] THREE members of the commission vote to  
24 authorize it. [Where the subject of such investigation is a member of  
25 the legislature or a legislative employee or a candidate for member of  
26 the legislature, at least two of the eight or more members who so vote  
27 to authorize such an investigation must have been appointed by a legis-  
28 lative leader or leaders from the major political party in which the  
29 subject of the proposed investigation is enrolled if such person is  
30 enrolled in a major political party. Where the subject of such investi-  
31 gation is a state officer or state employee, at least two of the eight  
32 or more members who so vote to authorize such an investigation must have  
33 been appointed by the governor and lieutenant governor. Where the  
34 subject of such investigation is a statewide elected official or a  
35 direct appointee of such an official, at least two of the eight or more  
36 members who so vote to authorize such an investigation must have been  
37 appointed by the governor and lieutenant governor and be enrolled in the  
38 major political party in which the subject of the proposed investigation  
39 is enrolled, if such person is enrolled in a major political party.]

40 (b) Substantial basis investigation. Upon the affirmative vote of not  
41 less than [eight] THREE commission members to commence a substantial  
42 basis investigation, written notice of the commission's decision shall  
43 be provided to the individual who is the subject of such substantial  
44 basis investigation. Such written notice shall include a copy of the  
45 commission's rules and procedures and shall also include notification of  
46 such individual's right to be heard within thirty calendar days of the  
47 date of the commission's written notice. The commission shall also  
48 inform the individual of its rules regarding the conduct of adjudicatory  
49 proceedings and appeals and the other due process procedural mechanisms  
50 available to such individual. If the commission determines at any stage  
51 that there is no violation or that any potential conflict of interest  
52 violation has been rectified, it shall so advise the individual and the  
53 complainant, if any. All of the foregoing proceedings shall be confiden-  
54 tial.

55 (c) The jurisdiction of the commission when acting pursuant to this  
56 section shall continue notwithstanding that a statewide elected official

1 or a state officer or employee or member of the legislature or legisla-  
2 tive employee separates from state service, or a political party chair  
3 ceases to hold such office, or a candidate ceases to be a candidate, or  
4 a lobbyist or client of a lobbyist ceases to act as such, provided that  
5 the commission notifies such individual or entity of the alleged  
6 violation of law pursuant to paragraph (a) of this subdivision within  
7 one year from his or her separation from state service or his or her  
8 termination of party service or candidacy, or from his, her or its last  
9 report filed pursuant to article one-A of the legislative law. Nothing  
10 in this section shall serve to limit the jurisdiction of the commission  
11 in enforcement of subdivision eight of section seventy-three of the  
12 public officers law.

13 14. An individual subject to the jurisdiction of the commission who  
14 knowingly and intentionally violates the provisions of subdivisions two  
15 through five-a, seven, eight, twelve or fourteen through seventeen of  
16 section seventy-three of the public officers law, section one hundred  
17 seven of the civil service law, or a reporting individual who knowingly  
18 and wilfully fails to file an annual statement of financial disclosure  
19 or who knowingly and wilfully with intent to deceive makes a false  
20 statement or fraudulent omission or gives information which such indi-  
21 vidual knows to be false on such statement of financial disclosure filed  
22 pursuant to section seventy-three-a of the public officers law shall be  
23 subject to a civil penalty in an amount not to exceed forty thousand  
24 dollars and the value of any gift, compensation or benefit received as a  
25 result of such violation. An individual who knowingly and intentionally  
26 violates the provisions of paragraph a, b, c, d, e, g, or i of subdivi-  
27 sion three of section seventy-four of the public officers law shall be  
28 subject to a civil penalty in an amount not to exceed ten thousand  
29 dollars and the value of any gift, compensation or benefit received as a  
30 result of such violation. An individual subject to the jurisdiction of  
31 the commission who knowingly and willfully violates article one-A of the  
32 legislative law shall be subject to civil penalty as provided for in  
33 that article. [Except with respect to members of the legislature and  
34 legislative employees, assessment] ASSESSMENT of a civil penalty here-  
35 under shall be made by the commission with respect to persons subject to  
36 its jurisdiction. With respect to a violation of any law other than  
37 sections seventy-three, seventy-three-a, and seventy-four of the public  
38 officers law, where the commission finds sufficient cause by a vote held  
39 in the same manner as set forth in paragraph (b) of subdivision thirteen  
40 of this section, it shall refer such matter to the appropriate prosecu-  
41 tor for further investigation. In assessing the amount of the civil  
42 penalties to be imposed, the commission shall consider the seriousness  
43 of the violation, the amount of gain to the individual and whether the  
44 individual previously had any civil or criminal penalties imposed pursu-  
45 ant to this section, and any other factors the commission deems appro-  
46 priate. [Except with respect to members of the legislature and legisla-  
47 tive employees, for] FOR a violation of this subdivision, other than for  
48 conduct which constitutes a violation of section one hundred seven of  
49 the civil service law, subdivisions twelve or fourteen through seventeen  
50 of section seventy-three or section seventy-four of the public officers  
51 law or article one-A of the legislative law, the commission may, in lieu  
52 of or in addition to a civil penalty, refer a violation to the appropri-  
53 ate prosecutor and upon such conviction, such violation shall be punish-  
54 able as a class A misdemeanor. A civil penalty for false filing may not  
55 be imposed hereunder in the event a category of "value" or "amount"  
56 reported hereunder is incorrect unless such reported information is

1 falsely understated. Notwithstanding any other provision of law to the  
2 contrary, no other penalty, civil or criminal may be imposed for a fail-  
3 ure to file, or for a false filing, of such statement, or a violation of  
4 subdivision six of section seventy-three of the public officers law,  
5 except that the appointing authority may impose disciplinary action as  
6 otherwise provided by law. The commission may refer violations of this  
7 subdivision to the appointing authority for disciplinary action as  
8 otherwise provided by law. The commission shall be deemed to be an agen-  
9 cy within the meaning of article three of the state administrative  
10 procedure act and shall adopt rules governing the conduct of adjudicato-  
11 ry proceedings and appeals taken pursuant to a proceeding commenced  
12 under article seventy-eight of the civil practice law and rules relating  
13 to the assessment of the civil penalties herein authorized and commis-  
14 sion denials of requests for certain deletions or exemptions to be made  
15 from a financial disclosure statement as authorized in paragraph (h) or  
16 paragraph (i) of subdivision nine of this section. Such rules, which  
17 shall not be subject to the approval requirements of the state adminis-  
18 trative procedure act, shall provide for due process procedural mech-  
19 anisms substantially similar to those set forth in article three of the  
20 state administrative procedure act but such mechanisms need not be iden-  
21 tical in terms or scope. Assessment of a civil penalty or commission  
22 denial of such a request shall be final unless modified, suspended or  
23 vacated within thirty days of imposition, with respect to the assessment  
24 of such penalty, or unless such denial of request is reversed within  
25 such time period, and upon becoming final shall be subject to review at  
26 the instance of the affected reporting individuals in a proceeding  
27 commenced against the commission, pursuant to article seventy-eight of  
28 the civil practice law and rules.

29 14-a. [The joint commission on public ethics shall have jurisdiction  
30 to investigate, but shall have no jurisdiction to impose penalties upon  
31 members of or candidates for member of the legislature or legislative  
32 employees for any violation of the public officers law.] If, after its  
33 substantial basis investigation, by a vote of at least [eight] THREE  
34 members, [two of whom are enrolled members of the investigated individ-  
35 ual's political party if the individual is enrolled in a major political  
36 party and were appointed by a legislative leader of such political  
37 party,] the joint commission on public ethics has found a substantial  
38 basis to conclude that a member of the legislature or a legislative  
39 employee or candidate for member of the legislature has violated any  
40 provisions of such laws, it shall [present] PREPARE a written report [to  
41 the legislative ethics commission,] and deliver a copy of the report to  
42 the individual who is the subject of the report. Such written report  
43 shall include:

44 (a) the commission's findings of fact and any evidence addressed in  
45 such findings; conclusions of law and citations to any relevant law,  
46 rule, opinion, regulation or standard of conduct upon which it relied;  
47 and

48 (b) a determination that a substantial basis exists to conclude that a  
49 violation has occurred, and the reasons and basis for such determi-  
50 nation.

51 [The joint commission shall also separately provide to the legislative  
52 ethics commission copies of additional documents or other evidence  
53 considered including evidence that may contradict the joint commission's  
54 findings, the names of and other information regarding any additional  
55 witnesses, and any other materials.] With respect to a violation of any  
56 law other than sections seventy-three, seventy-three-a, and seventy-four

1 of the public officers law, where the joint commission finds sufficient  
2 cause by a vote held in the same manner as set forth in paragraph (b) of  
3 subdivision thirteen of this section, it shall refer such matter to the  
4 appropriate prosecutor.

5 14-b. [With respect to the investigation of any individual who is not  
6 a member of the legislature or a legislative employee or candidate for  
7 member of the legislature, if after its investigation the joint commis-  
8 sion has found a substantial basis to conclude that the individual has  
9 violated the public officers law or the legislative law, the joint  
10 commission shall send a substantial basis investigation report contain-  
11 ing its findings of fact and conclusions of law to the individual. With  
12 respect to an individual who is a statewide elected official or a direct  
13 appointee of such an official, no violation may be found unless the  
14 majority voting in support of such a finding includes at least two  
15 members appointed by the governor and lieutenant governor and enrolled  
16 in the individual's major political party, if he or she is enrolled in a  
17 major political party. Where the subject of such investigation is a  
18 state officer or employee who is not a direct appointee of a statewide  
19 elected official, at least two of the eight or more members who vote to  
20 issue a substantial basis investigation report must have been appointed  
21 by the governor and lieutenant governor. The commission shall release  
22 such report publicly within forty-five days of its issuance.

23 14-c. With respect to an investigation of a lobbyist, if after its  
24 investigation the joint commission has found a substantial basis to  
25 conclude that the lobbyist has violated the legislative law, the joint  
26 commission shall issue a substantial basis investigation report contain-  
27 ing its findings of fact and conclusions of law to the lobbyist and  
28 shall make public such report within forty-five days of its issuance.]  
29 NOT LATER THAN FORTY-FIVE CALENDAR DAYS AFTER PREPARATION BY THE COMMIS-  
30 SION OF A WRITTEN SUBSTANTIAL BASIS INVESTIGATION REPORT AND ANY  
31 SUPPORTING DOCUMENTATION OR OTHER MATERIALS REGARDING A MATTER BEFORE  
32 THE COMMISSION PURSUANT TO THIS SECTION, UNLESS REQUESTED BY A LAW  
33 ENFORCEMENT AGENCY TO SUSPEND THE COMMISSION'S ACTION BECAUSE OF AN  
34 ONGOING CRIMINAL INVESTIGATION, THE COMMISSION SHALL MAKE PUBLIC SUCH  
35 REPORT IN ITS ENTIRETY; PROVIDED, HOWEVER, THAT THE COMMISSION MAY WITH-  
36 HOLD SUCH INFORMATION FOR NOT MORE THAN ONE ADDITIONAL PERIOD OF THE  
37 SAME DURATION AND, IF DEEMED NECESSARY, CONDUCT ADDITIONAL INVESTI-  
38 GATION, IN WHICH CASE THE COMMISSION SHALL, UPON THE TERMINATION OF SUCH  
39 ADDITIONAL PERIOD OR UPON PREPARATION OF A NEW REPORT AFTER SUCH ADDI-  
40 TIONAL INVESTIGATION, MAKE PUBLIC THE WRITTEN REPORT AND PUBLISH IT ON  
41 THE COMMISSION'S WEBSITE. THE COMMISSION SHALL NOT CONDUCT ADDITIONAL  
42 INVESTIGATION MORE THAN ONCE. IF THE COMMISSION CONDUCTS ADDITIONAL  
43 FACT-FINDING, THE COMMISSION'S ORIGINAL REPORT SHALL REMAIN CONFIDEN-  
44 TIAL.

45 14-C. THE COMMISSION SHALL REVIEW THE MATTER ADDRESSED IN A WRITTEN  
46 SUBSTANTIAL BASIS INVESTIGATION REPORT. NO LATER THAN NINETY DAYS AFTER  
47 FINAL PREPARATION OF SUCH REPORT, THE COMMISSION SHALL DISPOSE OF THE  
48 MATTER BY MAKING ONE OR MORE OF THE FOLLOWING DETERMINATIONS:

49 A. WHETHER THE COMMISSION ADOPTS THE FINAL CONTENT OF SUCH A REPORT;

50 B. WHETHER AND WHICH PENALTIES HAVE BEEN ASSESSED PURSUANT TO APPLICA-  
51 BLE LAW OR RULE AND THE REASONS THEREFOR; AND

52 C. WHETHER FURTHER ACTIONS HAVE BEEN TAKEN BY THE COMMISSION TO PUNISH  
53 OR DETER THE MISCONDUCT AT ISSUE AND THE REASONS THEREFOR.

54 THE COMMISSION'S DISPOSITION SHALL BE REPORTED IN WRITING AND  
55 PUBLISHED ON ITS WEBSITE NO LATER THAN TEN DAYS AFTER SUCH DISPOSITION

1 UNLESS REQUESTED BY A LAW ENFORCEMENT AGENCY TO SUSPEND THE COMMISSION'S  
2 ACTION BECAUSE OF AN ONGOING CRIMINAL INVESTIGATION.

3 15. A copy of any notice of delinquency or substantial basis investi-  
4 gation report shall be included in the reporting person's file and be  
5 available for public inspection and copying pursuant to the provisions  
6 of this section.

7 16. Upon written request from any person who is subject to the juris-  
8 diction of the commission and the requirements of sections seventy-  
9 three, seventy-three-a or seventy-four of the public officers law,  
10 [other than members of the legislature, candidates for member of the  
11 legislature and employees of the legislature,] the commission shall  
12 render written advisory opinions on the requirements of said provisions.  
13 An opinion rendered by the commission OR BY THE FORMER LEGISLATIVE  
14 ETHICS COMMISSION, until and unless amended or revoked, shall be binding  
15 on the commission in any subsequent proceeding concerning the person who  
16 requested the opinion and who acted in good faith, unless material facts  
17 were omitted or misstated by the person in the request for an opinion.  
18 Such opinion may also be relied upon by such person, and may be intro-  
19 duced and shall be a defense, in any criminal or civil action. Such  
20 requests shall be confidential but the commission may publish such opin-  
21 ions provided that the name of the requesting person and other identify-  
22 ing details shall not be included in the publication.

23 17. In addition to any other powers and duties specified by law, the  
24 commission shall have the power and duty to:

25 (a) Promulgate rules concerning restrictions on outside activities and  
26 limitations on the receipt of gifts and honoraria by persons subject to  
27 its jurisdiction, provided, however, a violation of such rules in and of  
28 itself shall not be punishable pursuant to subdivision fourteen of this  
29 section unless the conduct constituting the violation would otherwise  
30 constitute a violation of this section; and

31 (b) Administer and enforce all the provisions of this section; and

32 (c) Conduct any investigation necessary to carry out the provisions of  
33 this section. Pursuant to this power and duty, the commission may admin-  
34 ister oaths or affirmations, subpoena witnesses, compel their attendance  
35 and require the production of any books or records which it may deem  
36 relevant or material;

37 18. Within one hundred twenty days of the effective date of this  
38 subdivision, the commission shall create and thereafter maintain a  
39 publicly accessible website which shall set forth the procedure for  
40 filing a complaint with the commission, and which shall contain the  
41 documents identified in subdivision nineteen of this section, other than  
42 financial disclosure statements filed by state officers or employees or  
43 legislative employees, and any other records or information which the  
44 commission determines to be appropriate.

45 19. (a) Notwithstanding the provisions of article six of the public  
46 officers law, the only records of the commission which shall be avail-  
47 able for public inspection and copying are:

48 (1) the information set forth in an annual statement of financial  
49 disclosure filed pursuant to section seventy-three-a of the public offi-  
50 cers law except information deleted pursuant to paragraph (h) of subdi-  
51 vision nine of this section;

52 (2) notices of delinquency sent under subdivision twelve of this  
53 section;

54 (3) notices of civil assessments imposed under this section which  
55 shall include a description of the nature of the alleged wrongdoing, the

1 procedural history of the complaint, the findings and determinations  
2 made by the commission, and any sanction imposed;

3 (4) the terms of any settlement or compromise of a complaint or refer-  
4 ral which includes a fine, penalty or other remedy;

5 (5) those required to be held or maintained publicly available pursu-  
6 ant to article one-A of the legislative law; and

7 (6) substantial basis investigation reports issued by the commission  
8 pursuant to subdivision fourteen-a or fourteen-b of this section. [With  
9 respect to reports concerning members of the legislature or legislative  
10 employees or candidates for member of the legislature, the joint commis-  
11 sion shall not publicly disclose or otherwise disseminate such reports  
12 except in conformance with the requirements of paragraph (b) of subdivi-  
13 sion nine of section eighty of the legislative law.]

14 (b) Notwithstanding the provisions of article seven of the public  
15 officers law, no meeting or proceeding, including any such proceeding  
16 contemplated under paragraph (h) or (i) of subdivision nine of this  
17 section, of the commission shall be open to the public, except if  
18 expressly provided otherwise by the commission or as is required by  
19 article one-A of the legislative law.

20 (c) Pending any application for deletion or exemption to the commis-  
21 sion, all information which is the subject or a part of the application  
22 shall remain confidential. Upon an adverse determination by the commis-  
23 sion, the reporting individual may request, and upon such request the  
24 commission shall provide, that any information which is the subject or  
25 part of the application remain confidential for a period of thirty days  
26 following notice of such determination. In the event that the reporting  
27 individual resigns his office and holds no other office subject to the  
28 jurisdiction of the commission, the information shall not be made public  
29 and shall be expunged in its entirety.

30 20. THE COMMISSION SHALL CREATE AND THEREAFTER MAINTAIN A PUBLICLY  
31 ACCESSIBLE WEBSITE WHICH SHALL SET FORTH THE PROCEDURE FOR FILING A  
32 COMPLAINT WITH THE COMMISSION, AND WHICH SHALL CONTAIN ANY OTHER RECORDS  
33 OR INFORMATION WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE.

34 21. If any part or provision of this section or the application there-  
35 of to any person or organization is adjudged by a court of competent  
36 jurisdiction to be unconstitutional or otherwise invalid, such judgment  
37 shall not affect or impair any other part or provision or the applica-  
38 tion thereof to any other person or organization, but shall be confined  
39 in its operation to such part or provision.

40 S 3. Subdivision 5 of section 12 of the legislative law, as added by  
41 chapter 141 of the laws of 1994, is amended to read as follows:

42 5. Notwithstanding any provision of law to the contrary, services and  
43 expenses of the legislative health service, legislative library, legis-  
44 lative messenger service, [legislative ethics committee] JOINT COMMIS-  
45 SION ON PUBLIC ETHICS, joint operations of the legislative task force on  
46 demographic research and reapportionment, and contributions to the  
47 national conference of state legislatures shall be payable after audit  
48 by and on the warrant of the comptroller upon vouchers certified by the  
49 temporary president of the senate or his or her designee and the speaker  
50 of the assembly or his or her designee.

51 S 4. Paragraph (a) of subdivision 1, the opening paragraph of para-  
52 graph (a) and paragraph (c) of subdivision 6, the opening paragraph of  
53 subparagraph (ii) of paragraph (b) and paragraph (g) of subdivision 8,  
54 and subdivision 10 of section 73 of the public officers law, paragraph  
55 (a) of subdivision 1 as amended by section 1 of part A of chapter 399 of  
56 the laws of 2011, the opening paragraph of paragraph (a) of subdivision

6 as amended by section 3 of part A of chapter 399 of the laws of 2011, paragraph (c) of subdivision 6 as amended by chapter 813 of the laws of 1987, the opening paragraph of subparagraph (ii) of paragraph (b) of subdivision 8 as amended by chapter 574 of the laws of 2011, paragraph (g) of subdivision 8 as added by chapter 218 of the laws of 1998, and subdivision 10 as amended by section 13 of part A of chapter 399 of the laws of 2011, are amended to read as follows:

(a) The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the joint commission on public ethics [or legislative ethics commission] in relation to persons subject to [their respective jurisdictions] THE JOINT COMMISSION'S JURISDICTION.

Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the joint commission on public ethics [and the legislative ethics commission] a financial disclosure statement of

(c) Any such legislative employee who knowingly and wilfully with intent to deceive makes a false statement or gives information which he knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the [legislative ethics committee] JOINT COMMISSION ON PUBLIC ETHICS in accordance with the provisions of subdivision [twelve] FOURTEEN of section [eighty] NINETY-FOUR of the [legislative] EXECUTIVE law. For a violation of this subdivision, the [committee] JOINT COMMISSION may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.

The provisions of subparagraph (i) of this paragraph shall not apply to any such officer or employee who at the time of or prior to such termination had served in a policymaking position as determined by the appointing authority, which determination had been filed with the [state ethics commission or the commission on public integrity] JOINT COMMISSION ON PUBLIC ETHICS, provided that such officer or employee may so appear or practice or receive such compensation with the prior approval of the [state ethics commission or the commission on public integrity] JOINT COMMISSION ON PUBLIC ETHICS. In determining whether to grant such approval the [state ethics commission or the commission on public integrity] JOINT COMMISSION ON PUBLIC ETHICS shall consider:

(g) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the [state ethics commission] JOINT COMMISSION ON PUBLIC ETHICS that the services of such former officer or employee are required in connection with the agency's efforts to address the state's year 2000 compliance problem.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative

1 employee is a member, associate, retired member, of counsel or share-  
2 holder, from appearing, practicing, communicating or otherwise rendering  
3 services in relation to any matter before, or transacting business with  
4 a state agency, or a city agency with respect to a political party  
5 chairman in a county wholly included in a city with a population of more  
6 than one million, otherwise proscribed by this section, the judiciary  
7 law, the education law or any other law or disciplinary rule with  
8 respect to such official, member of the legislature or officer or  
9 employee, or political party chairman, where such statewide elected  
10 official, state officer or employee, member of the legislature or legis-  
11 lative employee, or political party chairman does not share in the net  
12 revenues, as defined in accordance with generally accepted accounting  
13 principles by the joint commission on public ethics [or by the legisla-  
14 tive ethics committee] in relation to persons subject to [their respec-  
15 tive jurisdictions] THE JOINT COMMISSION'S JURISDICTION, resulting ther-  
16 efrom, or, acting in good faith, reasonably believed that he or she  
17 would not share in the net revenues as so defined; nor shall anything  
18 contained in this section, the judiciary law, the education law or any  
19 other law or disciplinary rule be construed to prohibit any firm, asso-  
20 ciation or corporation in which any present or former statewide elected  
21 official, member of the legislature, legislative employee, full-time  
22 salaried state officer or employee or state officer or employee who is  
23 subject to the provisions of section seventy-three-a of this article is  
24 a member, associate, retired member, of counsel or shareholder, from  
25 appearing, practicing, communicating or otherwise rendering services in  
26 relation to any matter before, or transacting business with, the court  
27 of claims, where such statewide elected official, member of the legisla-  
28 ture, legislative employee, full-time salaried state officer or employee  
29 or state officer or employee who is subject to the provisions of section  
30 seventy-three-a of this article does not share in the net revenues, as  
31 defined in accordance with generally accepted accounting principles by  
32 the joint commission on public ethics [or by the legislative ethics  
33 committee] in relation to persons subject to [their respective jurisdic-  
34 tions] THE JOINT COMMISSION'S JURISDICTION, resulting therefrom, or,  
35 acting in good faith, reasonably believed that he or she would not share  
36 in the net revenues as so defined.

37 S 5. Paragraph (d) and (d-1) of subdivision 1, the opening paragraph  
38 and subparagraphs (ii), (viii) and (ix) of paragraph (a) and paragraphs  
39 (c), (e), (f) and (g) of subdivision 2 and subdivision 4 of section 73-a  
40 of the public officers law, paragraph (d) of subdivision 1, the opening  
41 paragraph and subparagraphs (ii), (viii) and (ix) of paragraph (a) and  
42 paragraphs (c), (e), (f) and (g) of subdivision 2 and subdivision 4 as  
43 amended and paragraph (d-1) of subdivision 1 as added by section 5 of  
44 part A of chapter 399 of the laws of 2011, are amended to read as  
45 follows:

46 (d) The term "legislative employee" shall mean any officer or employee  
47 of the legislature who receives annual compensation in excess of the  
48 filing rate established by paragraph (1) below or who is determined to  
49 hold a policy-making position by the appointing authority as set forth  
50 in a written instrument which shall be filed with the [legislative  
51 ethics commission and the] joint commission on public ethics.

52 (d-1) A financial disclosure statement required pursuant to section  
53 seventy-three of this article and this section shall be deemed "filed"  
54 with the joint commission on public ethics upon its filing, in accord-  
55 ance with this section, [with the legislative ethics commission] for all  
56 purposes including, but not limited to, subdivision fourteen of section



1 ninety-four of the executive law[, subdivision nine of section eighty of  
2 the legislative law] and subdivision four of this section.

3 Every statewide elected official, state officer or employee, member of  
4 the legislature, legislative employee and political party chairman and  
5 every candidate for statewide elected office or for member of the legis-  
6 lature shall file an annual statement of financial disclosure containing  
7 the information and in the form set forth in subdivision three of this  
8 section. On or before the fifteenth day of May with respect to the  
9 preceding calendar year: (1) every member of the legislature, every  
10 candidate for member of the legislature and legislative employee shall  
11 file such statement, ALONG WITH ANY REQUESTS FOR EXEMPTIONS OR  
12 DELETIONS, with the [legislative ethics commission which shall provide  
13 such statement along with any requests for exemptions or deletions to  
14 the] joint commission on public ethics [for filing and], WHICH SHALL  
15 MAKE rulings with respect to such requests for exemptions or deletions,  
16 on or before the thirtieth day of June; and (2) all other individuals  
17 required to file such statement shall file it with the joint commission  
18 on public ethics, except that:

19 (ii) a person who is required to file an annual financial disclosure  
20 statement with the joint commission on public ethics, and who is granted  
21 an additional period of time within which to file such statement due to  
22 justifiable cause or undue hardship, in accordance with required rules  
23 and regulations on the subject adopted pursuant to paragraph c of subdi-  
24 vision nine of section ninety-four of the executive law shall file such  
25 statement within the additional period of time granted[; and the legis-  
26 lative ethics commission shall notify the joint commission on public  
27 ethics of any extension granted pursuant to this paragraph];

28 (viii) a candidate substituted for another candidate, who fills a  
29 vacancy in a party designation or in an independent nomination, caused  
30 by declination, shall file such statement within ten days after the last  
31 day allowed by law to file a certificate to fill a vacancy in such party  
32 designation or independent nomination[;

33 (ix) with respect to all candidates for member of the legislature, the  
34 legislative ethics commission shall within five days of receipt provide  
35 the joint commission on public ethics the statement filed pursuant to  
36 subparagraphs (v), (vi), (vii) and (viii) of this paragraph].

37 (c) If the reporting individual is a senator or member of assembly,  
38 candidate for the senate or member of assembly or a legislative employ-  
39 ee, [such statement shall be filed with both the legislative ethics  
40 commission established by section eighty of the legislative law and the  
41 joint commission on public ethics in accordance with paragraph (d-1) of  
42 subdivision one of this section. If the reporting individual is a]  
43 statewide elected official, candidate for statewide elected office, a  
44 state officer or employee or a political party chairman, such statement  
45 shall be filed with the joint commission on public ethics established by  
46 section ninety-four of the executive law.

47 (e) Any person required to file such statement who commences employ-  
48 ment after May fifteenth of any year, MEMBERS OF THE LEGISLATURE, LEGIS-  
49 LATIVE EMPLOYEES, and political party chairman shall file such statement  
50 within thirty days after commencing employment or of taking the position  
51 of political party chairman, as the case may be. [In the case of members  
52 of the legislature and legislative employees, such statements shall be  
53 filed with the legislative ethics commission within thirty days after  
54 commencing employment, and the legislative ethics commission shall  
55 provide such statements to the joint commission on public ethics within  
56 forty-five days of receipt.]

1 (f) A person who may otherwise be required to file more than one annu-  
2 al financial disclosure statement [with both the joint commission on  
3 public ethics and the legislative ethics commission] in any one calendar  
4 year may satisfy such requirement by filing one such statement with  
5 [either body and by notifying the other body of such compliance] THE  
6 JOINT COMMISSION ON PUBLIC ETHICS.

7 (g) A person who is employed in more than one employment capacity for  
8 one or more employers certain of whose officers and employees are  
9 subject to filing a financial disclosure statement [with the same ethics  
10 commission, as the case may be,] and who receives distinctly separate  
11 payments of compensation for such employment shall be subject to the  
12 filing requirements of this section if the aggregate annual compensation  
13 for all such employment capacities is in excess of the filing rate  
14 notwithstanding that such person would not otherwise be required to file  
15 with respect to any one particular employment capacity. [A person not  
16 otherwise required to file a financial disclosure statement hereunder  
17 who is employed by an employer certain of whose officers or employees  
18 are subject to filing a financial disclosure statement with the joint  
19 commission on public ethics and who is also employed by an employer  
20 certain of whose officers or employees are subject to filing a financial  
21 disclosure statement with the legislative ethics commission shall not be  
22 subject to filing such statement with either such commission on the  
23 basis that his aggregate annual compensation from all such employers is  
24 in excess of the filing rate.]

25 4. A reporting individual who knowingly and wilfully fails to file an  
26 annual statement of financial disclosure or who knowingly and wilfully  
27 with intent to deceive makes a false statement or gives information  
28 which such individual knows to be false on such statement of financial  
29 disclosure filed pursuant to this section shall be subject to a civil  
30 penalty in an amount not to exceed forty thousand dollars. Assessment of  
31 a civil penalty hereunder shall be made by the joint commission on  
32 public ethics [or by the legislative ethics commission, as the case may  
33 be, with respect to persons subject to their respective jurisdictions].  
34 The joint commission on public ethics acting pursuant to subdivision  
35 fourteen of section ninety-four of the executive law [or the legislative  
36 ethics commission acting pursuant to subdivision eleven of section  
37 eighty of the legislative law, as the case may be,] may, in lieu of or  
38 in addition to a civil penalty, refer a violation to the appropriate  
39 prosecutor and upon such conviction, but only after such referral, such  
40 violation shall be punishable as a class A misdemeanor. A civil penalty  
41 for false filing may not be imposed hereunder in the event a category of  
42 "value" or "amount" reported hereunder is incorrect unless such reported  
43 information is falsely understated. Notwithstanding any other provision  
44 of law to the contrary, no other penalty, civil or criminal may be  
45 imposed for a failure to file, or for a false filing, of such statement,  
46 except that the appointing authority may impose disciplinary action as  
47 otherwise provided by law. The joint commission on public ethics [and  
48 the legislative ethics commission] shall [each] be deemed to be an agen-  
49 cy within the meaning of article three of the state administrative  
50 procedure act and shall adopt rules governing the conduct of adjudicato-  
51 ry proceedings and appeals relating to the assessment of the civil  
52 penalties herein authorized. Such rules, which shall not be subject to  
53 the approval requirements of the state administrative procedure act,  
54 shall provide for due process procedural mechanisms substantially simi-  
55 lar to those set forth in such article three but such mechanisms need  
56 not be identical in terms or scope. Assessment of a civil penalty shall

1 be final unless modified, suspended or vacated within thirty days of  
2 imposition and upon becoming final shall be subject to review at the  
3 instance of the affected reporting individual in a proceeding commenced  
4 against the joint commission on public ethics [or the legislative ethics  
5 commission], pursuant to article seventy-eight of the civil practice law  
6 and rules.

7 S 6. Transfer of records. The legislative ethics commission shall  
8 deliver to the joint commission on public ethics all books, papers,  
9 records, and property as requested by the joint commission.

10 S 7. Continuity of authority. For the purpose of succession to all  
11 functions, powers, duties and obligations transferred and assigned to,  
12 devolved upon and assumed by it pursuant to this act, the joint commis-  
13 sion on public ethics shall be deemed and held to constitute the contin-  
14 uation of the legislative ethics commission.

15 S 8. Completion of unfinished business. Any business or other matter  
16 undertaken or commenced by the legislative ethics commission pertaining  
17 to or connected with the functions, powers, obligations and duties here-  
18 by transferred and assigned to the joint commission on public ethics,  
19 and pending on the effective date of this act may be conducted and  
20 completed by the joint commission on public ethics in the same manner  
21 and under the same terms and conditions and with the same effect as if  
22 conducted and completed by the former legislative ethics commission.

23 S 9. Terms occurring in laws, contracts and other documents. Whenever  
24 the legislative ethics commission is referred to or designated in any  
25 law, contract or documents pertaining solely to those functions, powers,  
26 obligations and duties hereby transferred and assigned to the joint  
27 commission on public ethics, such reference or designation shall be  
28 deemed to refer to the joint commission on public ethics.

29 S 10. Existing rights and remedies preserved. No existing right or  
30 remedy of any character shall be lost, impaired or affected by reason of  
31 this act.

32 S 11. Pending actions and proceedings. No action or proceeding pending  
33 at the time when this act shall take effect, brought by or against the  
34 legislative ethics commission shall be affected by this act, but the  
35 same may be prosecuted or defended in the name of the joint commission  
36 on public ethics and upon application to the court, the joint commission  
37 on public ethics shall be substituted as a party.

38 S 12. Notwithstanding any contrary provision of the state finance law,  
39 transfer of appropriations heretofore made to the legislative ethics  
40 commission, all appropriations or reappropriations for the functions  
41 herein transferred heretofore made to the legislative ethics commission,  
42 or segregated pursuant to law, to the extent of remaining unexpended or  
43 unencumbered balances thereof, whether allocated or unallocated and  
44 whether obligated or unobligated, are hereby transferred to the joint  
45 commission on public ethics to the extent necessary to carry out its  
46 functions, powers and duties subject to the approval of the director of  
47 the budget for the same purposes for which originally appropriated or  
48 reappropriated and shall be payable on vouchers certified or approved by  
49 the joint commission on public ethics on audit and warrant of the comp-  
50 troller.

51 S 13. This act shall take effect January 1, 2013 provided, however,  
52 that the amendments to paragraph (i-1) of subdivision 9 and subparagraph  
53 1 of paragraph (a) of subdivision 19 of section 94 of the executive law  
54 made by section two of this act, shall take effect on the same date and  
55 in the same manner as subdivision 3 of section 22 of part A of chapter  
56 399 of the laws of 2011 takes effect.