

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

870--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommended to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the legislative law, in relation to registration filing fees for certain lobbying entities; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision (c) of section 1-c of the legislative law is
2 REPEALED and a new subdivision (c) is added to read as follows:
3 (C) THE TERM "LOBBYING" OR "LOBBYING ACTIVITIES" SHALL MEAN ANY
4 ATTEMPT TO INFLUENCE:
5 (I) THE PASSAGE OR DEFEAT OF ANY LEGISLATION BY EITHER HOUSE OF THE
6 STATE LEGISLATURE OR APPROVAL OR DISAPPROVAL OF ANY LEGISLATION BY THE
7 GOVERNOR;
8 (II) THE ADOPTION OR TERMS OF AN EXECUTIVE ORDER;
9 (III) THE ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY RULE OR REGU-
10 LATION HAVING THE FORCE AND EFFECT OF LAW BY A STATE AGENCY;
11 (IV) THE OUTCOME OF ANY RATE MAKING PROCEEDING BY A STATE AGENCY;
12 (V) ANY ACTION OR DETERMINATION BY A PUBLIC OFFICIAL OR BY A PERSON OR
13 ENTITY WORKING IN COOPERATION WITH A PUBLIC OFFICIAL OR BY EITHER HOUSE
14 OF THE STATE LEGISLATURE OR BY THE UNIFIED COURT SYSTEM RELATED TO THE
15 AWARD OR DENIAL OF ANY CONTRACT OR OTHER AGREEMENT FOR THE PROCUREMENT
16 OF GOODS, COMMODITIES, SERVICES, CONSTRUCTION, PUBLIC WORKS OR THE
17 PURCHASE, SALE, OR LEASE OF REAL PROPERTY, OR ANY INTEREST IN REAL PROP-
18 erty, ANY REVENUE CONTRACT OR ANY OTHER SIMILAR TRANSACTION, WHICH
19 ACTIONS OR DETERMINATIONS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO
20 ACTIONS OR DETERMINATIONS SETTING THE PROCUREMENT METHODOLOGY, THE TERMS

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

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1 OF A REQUEST FOR PROPOSALS OR INVITATION FOR BIDS OR OTHER PROCUREMENT
2 SOLICITATIONS AND THEIR EVALUATION, THE TERMS OF THE CONTRACT, THE
3 SELECTION OF A CONTRACTOR, AND THE ADMINISTRATION, IMPLEMENTATION, AND
4 ENFORCEMENT OF A CONTRACT;

5 (VI) ANY ACTION OR DECISION BY A PUBLIC OFFICIAL OR BY A PERSON OR
6 ENTITY WORKING IN COOPERATION WITH A PUBLIC OFFICIAL OR BY A MUNICIPAL
7 OFFICER OR A PERSON OR ENTITY WORKING IN COOPERATION WITH THE MUNICIPAL
8 OFFICER IN RELATION TO THE APPROVAL OR DISAPPROVAL OR THE IMPLEMENTATION
9 AND ADMINISTRATION OF TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING,
10 OR ANY OTHER TRIBAL-STATE AGREEMENTS AND ANY STATE ACTIONS RELATED TO
11 CLASS III GAMING AS PROVIDED IN 25 USC 2701, EXCEPT TO THE EXTENT DESIG-
12 NATION OF SUCH ACTIVITIES AS "LOBBYING" IS BARRED BY THE FEDERAL INDIAN
13 GAMING REGULATORY ACT;

14 (VII) THE PASSAGE OR DEFEAT OF ANY LOCAL LAW, ORDINANCE, RESOLUTION,
15 OR REGULATION BY ANY MUNICIPALITY OR SUBDIVISION THEREOF OR THE
16 ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY RULE, REGULATION, OR
17 RESOLUTION HAVING THE FORCE AND EFFECT OF A LOCAL LAW, ORDINANCE, RESOL-
18 UTION, OR REGULATION;

19 (VIII) ANY RATE MAKING PROCEEDING BY ANY MUNICIPALITY OR SUBDIVISION
20 THEREOF; OR

21 (IX) ANY ACTION OR DETERMINATION BY A MUNICIPAL OFFICER OR A PERSON OR
22 ENTITY WORKING IN COOPERATION WITH THE OFFICER RELATED TO THE AWARD OR
23 DENIAL OF ANY CONTRACT OR OTHER AGREEMENT FOR THE PROCUREMENT OF GOODS,
24 COMMODITIES, SERVICES, CONSTRUCTION, PUBLIC WORKS OR THE PURCHASE, SALE,
25 OR LEASE OF REAL PROPERTY, OR ANY INTEREST IN REAL PROPERTY, ANY REVENUE
26 CONTRACT OR ANY OTHER SIMILAR TRANSACTION, WHICH ACTIONS OR DETERMI-
27 NATIONS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO ACTIONS OR DETERMI-
28 NATIONS SETTING THE PROCUREMENT METHODOLOGY, THE TERMS OF A REQUEST FOR
29 PROPOSALS OR INVITATION FOR BIDS OR OTHER PROCUREMENT SOLICITATIONS AND
30 THEIR EVALUATION, THE TERMS OF THE CONTRACT, THE SELECTION OF A CONTRAC-
31 TOR, AND THE ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT OF A
32 CONTRACT.

33 THE TERM "LOBBYING" SHALL NOT INCLUDE:

34 (1) PERSONS ENGAGED IN DRAFTING LEGISLATION, RULES, REGULATIONS OR
35 RATES, ADVISING CLIENTS AND RENDERING OPINIONS ON PROPOSED LEGISLATION,
36 RULES, REGULATIONS OR RATES, WHERE SUCH PROFESSIONAL SERVICES ARE NOT
37 OTHERWISE CONNECTED WITH LEGISLATIVE OR EXECUTIVE ACTION ON SUCH LEGIS-
38 LATION, OR ADMINISTRATIVE ACTION ON SUCH RULES, REGULATIONS OR RATES;

39 (2) NEWSPAPERS AND OTHER PERIODICALS AND RADIO AND TELEVISION
40 STATIONS, AND OWNERS AND EMPLOYEES THEREOF, PROVIDED THAT THEIR ACTIV-
41 ITIES IN CONNECTION WITH PROPOSED LEGISLATION, RULES, REGULATIONS, RATES
42 OR CONTRACTS OR OTHER AGREEMENTS FOR THE PROCUREMENT OF GOODS, COMMOD-
43 ITIES, SERVICES, CONSTRUCTION, OR PUBLIC WORKS BY A STATE AGENCY, MUNIC-
44 IPAL AGENCY, LOCAL LEGISLATIVE BODY, THE STATE LEGISLATURE, OR THE
45 UNIFIED COURT SYSTEM OR CONTRACTS OR OTHER AGREEMENTS FOR THE PURCHASE,
46 SALE, OR LEASE OF REAL PROPERTY OR THE ACQUISITION OR GRANT OF OTHER
47 PROPERTY INTERESTS IN REAL PROPERTY BY A STATE AGENCY, MUNICIPAL AGENCY,
48 LOCAL LEGISLATIVE BODY, THE STATE LEGISLATURE, OR THE UNIFIED COURT
49 SYSTEM, ARE LIMITED TO THE PUBLICATION OR BROADCAST OF NEWS ITEMS,
50 EDITORIALS OR OTHER COMMENTS, OR PAID ADVERTISEMENTS;

51 (3) PERSONS WHO PARTICIPATE AS WITNESSES, ATTORNEYS OR OTHER REPRESENT-
52 ATIVES IN PUBLIC RULE MAKING OR RATE MAKING PROCEEDINGS OF A STATE OR
53 MUNICIPAL AGENCY, WITH RESPECT TO ALL PARTICIPATION BY SUCH PERSONS
54 WHICH IS PART OF THE PUBLIC RECORD THEREOF AND ALL PREPARATION BY SUCH
55 PERSONS FOR SUCH PARTICIPATION;

1 (4) PERSONS WHO ATTEMPT TO INFLUENCE A STATE OR MUNICIPAL AGENCY IN AN
2 ADJUDICATORY PROCEEDING, AS "ADJUDICATORY PROCEEDING" IS DEFINED BY
3 SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT;

4 (5) PERSONS WHO PREPARE OR SUBMIT A RESPONSE TO A REQUEST FOR INFORMA-
5 TION OR COMMENTS BY THE STATE LEGISLATURE, THE GOVERNOR, OR A STATE
6 AGENCY OR A COMMITTEE OR OFFICER OF THE LEGISLATURE OR A STATE AGENCY OR
7 BY A LEGISLATIVE OR EXECUTIVE BODY OR OFFICER OF A MUNICIPALITY OR A
8 COMMISSION, COMMITTEE OR OFFICER OF A MUNICIPAL LEGISLATIVE OR EXECUTIVE
9 BODY;

10 (6) ANY ATTEMPT BY A CHURCH, ITS INTEGRATED AUXILIARY, OR A CONVENTION
11 OR ASSOCIATION OF CHURCHES THAT IS EXEMPT FROM FILING A FEDERAL INCOME
12 TAX RETURN UNDER PARAGRAPH 2(A)(I) OF SECTION 6033(A) OF TITLE 26 OF THE
13 UNITED STATES CODE OR A RELIGIOUS ORDER THAT IS EXEMPT FROM FILING A
14 FEDERAL INCOME TAX RETURN UNDER PARAGRAPH (2)(A)(III) OF SUCH SECTION
15 6033(A) TO INFLUENCE PASSAGE OR DEFEAT OF A LOCAL LAW, ORDINANCE OR
16 REGULATION OR ANY RULE OR REGULATION HAVING THE FORCE AND EFFECT OF A
17 LOCAL LAW, ORDINANCE OR REGULATION;

18 (7) ANY ACTIVITY RELATING TO PROCUREMENTS MADE UNDER SECTION ONE
19 HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW UNDERTAKEN BY (I) THE
20 NON-PROFIT-MAKING AGENCIES APPOINTED PURSUANT TO PARAGRAPH E OF SUBDIVI-
21 SION SIX OF SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW BY
22 THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE
23 COMMISSIONER FOR THE BLIND AND VISUALLY HANDICAPPED, OR THE COMMISSIONER
24 OF EDUCATION, AND (II) THE QUALIFIED CHARITABLE NON-PROFIT-MAKING AGEN-
25 CIES FOR THE BLIND, AND QUALIFIED CHARITABLE NON-PROFIT-MAKING AGENCIES
26 FOR OTHER SEVERELY DISABLED PERSONS AS IDENTIFIED IN SUBDIVISION TWO OF
27 SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW;

28 (8) PARTICIPANTS, INCLUDING THOSE APPEARING ON BEHALF OF A CLIENT, IN
29 A PUBLICLY NOTICED CONFERENCE PURSUANT TO A REQUEST FOR PROPOSALS, INVI-
30 TATION FOR BIDS, OR OTHER SOLICITATIONS;

31 (9) PERSONS WHO HAVE BEEN TENTATIVELY AWARDED A CONTRACT OR REPRESENT
32 PERSONS WHO HAVE BEEN TENTATIVELY AWARDED A CONTRACT AND ARE ENGAGED IN
33 COMMUNICATIONS WITH A STATE AGENCY OR MUNICIPALITY SOLELY FOR THE
34 PURPOSE OF NEGOTIATING THE TERMS OF THE CONTRACT AFTER BEING NOTIFIED OF
35 SUCH AWARD OR PERSONS OR THEIR REPRESENTATIVES WHO ARE PURCHASING PURSU-
36 ANT TO AN EXISTING CONTRACT; OR PERSONS WHO CURRENTLY HOLD A FRANCHISE
37 AND WHO ARE ENGAGED IN NEGOTIATING THE TERMS OF A TENTATIVE FRANCHISE
38 RENEWAL CONTRACT WITH A MUNICIPALITY, BUT SUCH NEGOTIATIONS, WHICH DO
39 NOT CONSTITUTE LOBBYING, DO NOT INCLUDE COMMUNICATIONS TO THE LOCAL
40 LEGISLATIVE BODY THAT MUST APPROVE THE CONTRACT;

41 (10) PERSONS OR THE REPRESENTATIVES OF PERSONS WHO ARE A PARTY TO A
42 PROTEST, APPEAL OR OTHER REVIEW PROCEEDING (INCLUDING THE APPARENT
43 SUCCESSFUL BIDDER OR PROPOSER AND HIS OR HER REPRESENTATIVE) OR PERSONS
44 WHO BRING COMPLAINTS OF ILLEGAL CONDUCT IN A PROCUREMENT PROCESS TO THE
45 COMPTROLLER'S OFFICE, THE ATTORNEY GENERAL, INSPECTOR GENERAL, OR A
46 DISTRICT ATTORNEY;

47 (11) THE SUBMISSION OF A BID OR PROPOSAL (WHETHER SUBMITTED ORALLY OR
48 IN WRITING) IN RESPONSE TO A REQUEST FOR PROPOSALS OR INVITATION FOR
49 BIDS;

50 (12) PROSPECTIVE BIDDERS OR PROPOSERS OR THEIR REPRESENTATIVES SUBMIT-
51 TING WRITTEN QUESTIONS TO A DESIGNATED AGENCY OR MUNICIPAL CONTACT SET
52 FORTH IN A REQUEST FOR PROPOSALS, OR INVITATION FOR BIDS; AND

53 (13) APPLICATIONS FOR LICENSES, CERTIFICATES, AND PERMITS AUTHORIZED
54 BY OTHER STATUTES.

1 S 2. Subdivisions (m) and (n) of section 1-c of the legislative law
2 are REPEALED and two new subdivisions (m) and (n) are added to read as
3 follows:

4 (M) THE TERM "RESTRICTED PERIOD" SHALL MEAN THE PERIOD OF TIME BEGIN-
5 NING WITH THE ISSUANCE OF A REQUEST FOR PROPOSAL, INVITATION FOR BIDS,
6 OR SOLICITATION OF PROPOSALS, OR ANY OTHER METHOD FOR SOLICITING A
7 RESPONSE FROM POTENTIAL CONTRACTORS INTENDING TO RESULT IN A CONTRACT
8 WITH A STATE AGENCY, MUNICIPALITY, THE STATE LEGISLATURE, OR STATE JUDI-
9 CIARY AND ENDING WITH THE TENTATIVE AWARD OF THE CONTRACT.

10 (N) FOR PURPOSES OF THIS ARTICLE, A REVENUE CONTRACT SHALL MEAN ANY
11 WRITTEN AGREEMENT BETWEEN AN AGENCY OR MUNICIPALITY AND A PRIVATE INDI-
12 VIDUAL OR BUSINESS ENTITY WHEREBY THE AGENCY OR MUNICIPALITY GIVES OR
13 GRANTS A CONCESSION, A FRANCHISE OR ANY CONSIDERATION OTHER THAN THE
14 PAYMENT OF MONEY.

15 S 3. Paragraphs 5 and 6 of subdivision (c) of section 1-e of the
16 legislative law, as amended by chapter 1 of the laws of 2005, are
17 amended to read as follows:

18 (5) the following information on which the lobbyist expects to lobby:
19 (i) a description of the general subject or subjects, (ii) the legisla-
20 tive bill numbers of any bills OR RESOLUTIONS, (iii) the numbers or
21 subject matter (if there are no numbers) of gubernatorial executive
22 orders or executive orders issued by the chief executive officer of a
23 municipality, (iv) the subject matter of and tribes involved in tribal-
24 state compacts, memoranda of understanding, or any other state-tribal
25 agreements and any state actions related to class III gaming as provided
26 in 25 U.S.C. S 2701, (v) the rule, regulation, and ratemaking numbers of
27 any rules, regulations, rates, or municipal ordinances and resolutions,
28 or proposed rules, regulations, or rates, or municipal ordinances and
29 resolutions, and (vi) the titles and any identifying numbers of any
30 procurement contracts, BIDS, REQUESTS FOR PROPOSALS, INVITATION FOR BIDS
31 and other documents disseminated by a state agency, either house of the
32 state legislature, the unified court system, municipal agency or local
33 legislative body in connection with a governmental procurement;

34 (6) the name of the [person, organization, or legislative body]
35 PERSONS, ORGANIZATIONS AND LEGISLATIVE BODIES before which the lobbyist
36 is lobbying or expects to lobby;

37 S 4. Paragraph 3 of subdivision (b) of section 1-h of the legislative
38 law, as amended by chapter 14 of the laws of 2007, is amended to read as
39 follows:

40 (3) the following information on which the lobbyist has lobbied: (i) a
41 description of the general subject or subjects, (ii) the legislative
42 bill numbers of any bills OR RESOLUTIONS, (iii) the numbers or subject
43 matter (if there are no numbers) of gubernatorial executive orders or
44 executive orders issued by the chief executive officer of a municipi-
45 pality, (iv) the subject matter of and tribes involved in tribal-state
46 compacts, memoranda of understanding, or any other state-tribal agree-
47 ments and any state actions related to class III gaming as provided in
48 25 U.S.C. S 2701, (v) the rule, regulation, and ratemaking or municipal
49 ordinance or resolution numbers of any rules, regulations, or rates or
50 ordinance or proposed rules, regulations, or rates or municipal ordi-
51 nances or resolutions, and (vi) the titles and any identifying numbers
52 of any procurement contracts, BIDS, REQUESTS FOR PROPOSALS OR INVITATION
53 FOR BIDS and other documents disseminated by a state agency, either
54 house of the state legislature, the unified court system, municipal
55 agency or local legislative body in connection with a governmental
56 procurement;

1 S 5. Paragraph 3 of subdivision (b) of section 1-j of the legislative
2 law, as amended by chapter 1 of the laws of 2005, is amended to read as
3 follows:

4 (3) the following information on which each lobbyist retained,
5 employed or designated by such client has lobbied, and on which such
6 client has lobbied: (i) a description of the general subject or
7 subjects, (ii) the legislative bill numbers of any bills OR RESOLUTIONS,
8 (iii) the numbers or subject matter (if there are no numbers) of guber-
9 natorial executive orders or executive orders issued by the chief execu-
10 tive officer of a municipality, (iv) the subject matter of and tribes
11 involved in tribal-state compacts, memoranda of understanding, or any
12 other state-tribal agreements and any state actions related to class III
13 gaming as provided in 25 U.S.C. 2701, (v) the rule, regulation, and
14 ratemaking or municipal resolution or ordinance numbers of any rules,
15 regulations, or rates, or municipal resolutions or ordinances or
16 proposed rules, regulations, or rates, or municipal ordinances or resol-
17 utions and (vi) the titles and any identifying numbers of any procure-
18 ment contracts, BIDS, REQUESTS FOR PROPOSALS OR INVITATION FOR BIDS and
19 other documents disseminated by a state agency, either house of the
20 state legislature, the unified court system, municipal agency or local
21 legislative body in connection with a governmental procurement;

22 S 6. Section 1-k of the legislative law is REPEALED and a new section
23 1-k is added to read as follows:

24 S 1-K. CONTINGENT RETAINER. (A) NO CLIENT SHALL RETAIN OR EMPLOY ANY
25 LOBBYIST FOR COMPENSATION, THE RATE OR AMOUNT OF WHICH COMPENSATION IN
26 WHOLE OR PART IS CONTINGENT OR DEPENDENT UPON: (I) THE PASSAGE OR DEFEAT
27 OF ANY LEGISLATIVE BILL OR THE APPROVAL OR VETO OF ANY LEGISLATION BY
28 THE GOVERNOR, THE ADOPTION OR TERMS OF AN EXECUTIVE ORDER, OR THE
29 ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY CODE, RULE OR REGULATION
30 HAVING THE FORCE AND EFFECT OF LAW, OR THE OUTCOME OF ANY RATE MAKING
31 PROCEEDING BY A STATE AGENCY OR THE ACCEPTANCE OF OR DECISION REGARDING
32 ANY BID OR CONTRACT BY A STATE AGENCY OR AGREEMENT FOR THE PURCHASE,
33 SALE, OR LEASE OF REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY, ANY
34 REVENUE CONTRACT OR ANY OTHER SIMILAR TRANSACTION, WHICH ACTIONS OR
35 DETERMINATIONS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO ACTIONS OR
36 DETERMINATIONS SETTING THE PROCUREMENT METHODOLOGY, THE TERMS OF A
37 REQUEST FOR PROPOSALS OR INVITATION FOR BIDS OR OTHER PROCUREMENT SOLIC-
38 ITATIONS AND THEIR EVALUATION, THE TERMS OF THE CONTRACT, THE SELECTION
39 OF A CONTRACTOR, AND THE ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT
40 OF A CONTRACT, THE APPROVAL OR DISAPPROVAL OF A TRIBAL-STATE AGREEMENT
41 OR (II) THE PASSAGE OR DEFEAT OF ANY LOCAL LAW, ORDINANCE, RESOLUTION,
42 OR REGULATION BY ANY MUNICIPALITY OR SUBDIVISION THEREOF, OR THE
43 ADOPTION, REJECTION, OR IMPLEMENTATION OF ANY RULE, RESOLUTION, OR REGU-
44 LATION HAVING THE FORCE OR EFFECT OF A LOCAL LAW, ORDINANCE, RESOLUTION,
45 OR REGULATION, OR THE OUTCOME OF ANY RATEMAKING PROCEEDING BY ANY MUNI-
46 CIPALITY OR SUBDIVISION THEREOF OR THE ACCEPTANCE OF OR DECISION REGARD-
47 ING ANY BID OR CONTRACT OR AGREEMENT FOR THE PURCHASE, SALE, OR LEASE OF
48 REAL PROPERTY OR GRANT OF OTHER INTEREST IN REAL PROPERTY BY A MUNICI-
49 PALITY, THE DECISION OF ANY MUNICIPAL OFFICIAL REGARDING PROCUREMENT
50 METHODOLOGY, TERMS OF BIDS OR SOLICITATIONS, OR THE ADMINISTRATION,
51 IMPLEMENTATION, AND ENFORCEMENT OF A CONTRACT. THIS SECTION SHALL NOT
52 APPLY TO COMMISSION SALESPERSONS. THE TERM "COMMISSION SALESPERSON"
53 SHALL MEAN ANY PERSON THE PRIMARY PURPOSE OF WHOSE EMPLOYMENT IS TO
54 CAUSE OR PROMOTE THE SALE OF, OR TO INFLUENCE OR INDUCE ANOTHER TO MAKE
55 A PURCHASE OF GOODS, COMMODITIES, OR SERVICES, WHETHER SUCH PERSON IS AN
56 EMPLOYEE (AS THAT TERM IS DEFINED FOR TAX PURPOSES) OF OR AN INDEPENDENT

1 CONTRACTOR FOR A VENDOR, PROVIDED THAT AN INDEPENDENT CONTRACTOR SHALL
2 HAVE A WRITTEN CONTRACT FOR A TERM OF NOT LESS THAN SIX MONTHS OR FOR AN
3 INDEFINITE TERM, AND WHICH PERSON SHALL BE COMPENSATED, IN WHOLE OR IN
4 PART, BY THE PAYMENT OF A PERCENTAGE AMOUNT OF ALL OR A SUBSTANTIAL PART
5 OF THE SALES WHICH SUCH PERSON HAS CAUSED, PROMOTED, INFLUENCED OR
6 INDUCED, PROVIDED, HOWEVER, THAT NO PERSON SHALL BE CONSIDERED A COMMIS-
7 SION SALESPERSON WITH RESPECT TO ANY SALE TO OR PURCHASE BY AN AGENCY OF
8 THE STATE OR MUNICIPALITY IF THE PERCENTAGE AMOUNT OF ANY COMMISSION
9 PAYABLE WITH RESPECT TO SUCH SALE OR PURCHASE IS SUBSTANTIALLY IN EXCESS
10 OF ANY COMMISSION PAYABLE WITH RESPECT TO ANY COMPARABLE SALE TO A
11 PURCHASER THAT IS NOT AN AGENCY OF THE STATE OR MUNICIPALITY.

12 (B) NO PERSON SHALL ACCEPT SUCH A RETAINER OR EMPLOYMENT. A VIOLATION
13 OF THIS SECTION SHALL BE A CLASS A MISDEMEANOR.

14 S 7. Section 1-n of the legislative law is REPEALED and a new section
15 1-n is added to read as follows:

16 S 1-N. RESTRICTED CONTACTS. 1. DURING THE RESTRICTED PERIOD, A POTEN-
17 TIAL CONTRACTOR OR ITS REPRESENTATIVE SHALL NOT ENGAGE IN LOBBYING
18 ACTIVITIES CONCERNING A PENDING CONTRACT DECISION BY MAKING CONTACT WITH
19 AN OFFICER, EMPLOYEE, AGENT, CONSULTANT OR OTHER REPRESENTATIVE OF THE
20 CONTRACTING AGENCY OR MUNICIPALITY, INCLUDING THE EXECUTIVE CHAMBER IF A
21 STATE AGENCY IS THE CONTRACTING ENTITY OR, IF THE LEGISLATURE IS THE
22 CONTRACTING ENTITY, ANY ELECTED LEGISLATOR OR LEGISLATIVE STAFF, OR IF
23 THE JUDICIARY IS THE CONTRACTING ENTITY, ANY JUDICIAL OFFICER OR STAFF,
24 WHO IS NOT DESIGNATED BY THE CONTRACTING ENTITY AS A CONTACT PERSON TO
25 WHOM SUCH COMMUNICATION MUST BE DIRECTED. THE PROHIBITION SET FORTH IN
26 THE PRECEDING SENTENCE SHALL NOT APPLY TO ANY CONTACTS DESCRIBED IN
27 SUBDIVISION TWO OF THIS SECTION.

28 2. A COMPLAINT BY A POTENTIAL CONTRACTOR OR REPRESENTATIVE OF A POTEN-
29 TIAL CONTRACTOR REGARDING THE CONTRACTING PROCESS MAY BE MADE IN WRITING
30 TO THE GENERAL COUNSEL'S OFFICE OF THE STATE AGENCY, MUNICIPALITY,
31 LEGISLATIVE BODY OR JUDICIAL ENTITY CONDUCTING THE PROCUREMENT. SUCH
32 OFFICE SHALL UPON RECEIPT HAVE FIVE BUSINESS DAYS TO ISSUE A WRITTEN
33 RESPONSE TO THE COMPLAINANT. NOTHING IN THIS SECTION SHALL BE DEEMED TO
34 PREVENT OR DELAY ANY PERSON FROM, AT ANY TIME, SUBMITTING A COMPLAINT OR
35 AN APPEAL REGARDING THE PROCUREMENT OR CONTRACTING PROCESS TO (I) THE
36 STATE COMPTROLLER; (II) THE INSPECTOR GENERAL; (III) THE ATTORNEY GENER-
37 AL; (IV) A DISTRICT ATTORNEY; OR (V) ANY OTHER LAW ENFORCEMENT AGENCY.

38 S 8. Section 1-t of the legislative law is REPEALED and a new section
39 1-t is added to read as follows:

40 S 1-T. ADVISORY COUNCIL ON PROCUREMENT LOBBYING. (A) THERE SHALL BE
41 WITHIN THE COMMISSION, AN ADVISORY COUNCIL ON PROCUREMENT LOBBYING. THE
42 COUNCIL SHALL BE COMPOSED OF NINE MEMBERS AS FOLLOWS:

43 (I) THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, OR HIS OR HER
44 DESIGNEE;

45 (II) THE STATE COMPTROLLER, OR HIS OR HER DESIGNEE;

46 (III) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE;

47 (IV) ONE MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

48 (V) ONE MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

49 (VI) ONE MEMBER APPOINTED BY THE SENATE MINORITY LEADER;

50 (VII) ONE MEMBER APPOINTED BY THE ASSEMBLY MINORITY LEADER;

51 (VIII) ONE MEMBER APPOINTED BY THE GOVERNOR WHO SHALL BE REPRESENTATIVE OF PUBLIC AUTHORITIES OR PUBLIC BENEFIT CORPORATIONS; AND

52 (IX) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS.

53 (B) THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR
54 SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
55 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.
56

1 (C) THE COUNCIL SHALL PROVIDE ADVICE TO THE COMMISSION WITH RESPECT TO
2 THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE AS SUCH PROVISIONS
3 PERTAIN TO PROCUREMENT LOBBYING.

4 (D) THE COUNCIL SHALL ANNUALLY REPORT TO THE LEGISLATURE ANY PROBLEMS
5 IN THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE AS SUCH
6 PROVISIONS PERTAIN TO PROCUREMENT LOBBYING. THE COUNCIL SHALL INCLUDE IN
7 THE REPORT ANY RECOMMENDED CHANGES TO INCREASE THE EFFECTIVENESS OF THAT
8 IMPLEMENTATION.

9 (E) THE COUNCIL SHALL, BY OCTOBER THIRTIETH, TWO THOUSAND TWELVE,
10 SUBMIT A REPORT TO THE LEGISLATURE ON THE EFFECTS OF THE PROCUREMENT
11 PROVISIONS AS SET FORTH IN THIS ARTICLE INCLUDING BUT NOT LIMITED TO ANY
12 CHANGES IN THE NUMBER AND NATURE OF VENDORS AND PROSPECTIVE VENDORS
13 AFTER JANUARY FIRST, TWO THOUSAND EIGHT.

14 S 9. This act shall take effect immediately; provided, however, that
15 section one of this act shall take effect on the first of January next
16 succeeding the date on which this act shall have become a law.