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

590--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. BRESLIN, HUNTLEY, KRUEGER, OPPENHEIMER, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law and the legislative law, in relation to the receipt of monies by members of the legislature for purposes of legal defense

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

Section 1. The public officers law is amended by adding a new section 77-b to read as follows:

S 77-B. DISCLOSURE OF SPECIAL DEFENSE FUNDS RECEIVED BY MEMBERS OF THE LEGISLATURE. 1. CONTRIBUTIONS MADE BY ANY PERSON, FIRM, ASSOCIATION OR CORPORATION TO A MEMBER OF THE STATE LEGISLATURE WHICH ARE INTENDED TO BE USED BY SUCH MEMBER, OR ON BEHALF OF SUCH MEMBER, FOR THE PAYMENT OF LEGAL SERVICES AND OTHER CHARGES IN CONNECTION WITH THE LEGAL DEFENSE OF SUCH MEMBER IN ANY PAST OR PENDING CIVIL OR CRIMINAL ACTION SHALL BE SUBJECT TO THE MONETARY LIMITATIONS SET FORTH IN SUBDIVISION ONE OF SECTION 14-114 OF THE ELECTION LAW. SUCH CONTRIBUTIONS SHALL BE DISCLOSED ANNUALLY TO THE LEGISLATIVE ETHICS COMMISSION ON SWORN STATEMENTS SETTING FORTH THE DOLLAR AMOUNT OF ANY RECEIPT OR CONTRIBUTION OR THE FAIR MARKET VALUE OF ANY RECEIPT OR CONTRIBUTION WHICH IS OTHER THAN OF MONEY, THE NAME AND ADDRESS OF THE CONTRIBUTOR OR PERSON FROM WHOM RECEIVED. ANY STATEMENT REPORTING A LOAN SHALL HAVE ATTACHED TO IT A COPY OF THE EVIDENCE OF INDEBTEDNESS. THE LEGISLATIVE ETHICS COMMISSION SHALL PROVIDE FORMS SUITABLE FOR SUCH STATEMENTS.

2. FOR THE PURPOSES OF THIS SECTION, "CONTRIBUTION" MEANS ANY GIFT, SUBSCRIPTION, ADVANCE, OR DEPOSIT OF MONEY OR ANY THING OF VALUE, MADE IN CONNECTION WITH THE LEGAL DEFENSE OF A MEMBER OF THE LEGISLATURE IN

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

LBD05208-03-1

CONNECTION WITH A CIVIL OR CRIMINAL ACTION AGAINST SUCH MEMBER, INCLUDING BUT NOT LIMITED TO COMPENSATION FOR THE PERSONAL SERVICES OF ANY INDIVIDUAL WHICH ARE RENDERED IN CONNECTION WITH SUCH LEGAL DEFENSE WITHOUT CHARGE. A LOAN MADE TO A MEMBER OF THE LEGISLATURE BY ANY PERSON, FIRM, ASSOCIATION OR CORPORATION OTHER THAN IN THE REGULAR COURSE OF THE LENDER'S BUSINESS SHALL BE DEEMED A CONTRIBUTION FOR THE PURPOSES OF THIS SECTION. THE PROVISIONS OF THIS SECTION SHALL APPLY TO CONTRIBUTIONS MADE ON AND AFTER JANUARY FIRST, TWO THOUSAND TWELVE.

3. ANY ANONYMOUS CONTRIBUTIONS RECEIVED BY A MEMBER OF THE LEGISLATURE FOR THE LEGAL DEFENSE OF SUCH MEMBER SHALL NOT BE USED OR EXPENDED, BUT THE SAME SHALL BE PAID OVER TO THE COMPTROLLER OF THE STATE OF NEW YORK FOR DEPOSIT IN THE GENERAL TREASURY OF THE STATE UNLESS, BEFORE THE DATE FOR FILING STATEMENTS AND REPORTS AS HEREIN PROVIDED, THE IDENTITY OF SUCH ANONYMOUS CONTRIBUTOR SHALL BECOME KNOWN, AND, IN SUCH EVENT THE ANONYMOUS CONTRIBUTION SHALL BE RETURNED TO SUCH CONTRIBUTOR OR RETAINED AND PROPERLY REPORTED AS A CONTRIBUTION FROM SUCH CONTRIBUTOR.

S 2. Paragraph (vii) of subdivision (j) of section 1-c of the legislative law, as amended by section 1 of part D of chapter 399 of the laws of 2011, is amended to read as follows:

(vii) gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered: (A) the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged; (B) whether the item was purchased by the donor; and (C) whether or not the donor at the same time gave similar items to other public officials; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client. CONTRIBUTIONS MADE BY ANY INDIVIDUAL OR ENTITY REQUIRED TO BE LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO THIS ARTICLE TO A MEMBER OF THE STATE LEGISLATURE WHICH ARE INTENDED TO BE USED BY SUCH MEMBER OR ON BEHALF OF SUCH MEMBER FOR THE PAYMENT OF LEGAL SERVICES AND OTHER CHARGES IN CONNECTION WITH THE LEGAL DEFENSE OF SUCH MEMBER IN ANY PAST OR PENDING CIVIL OR CRIMINAL ACTION SHALL BE CONSIDERED GIFTS UNDER THIS ARTICLE;

S 3. Subdivision 13 of section 80 of the legislative law, as amended by section 9 of part A of chapter 399 of the laws of 2011, is amended to read as follows:

13. Within one hundred twenty days of the effective date of this subdivision, the commission shall create and thereafter maintain a publicly accessible website which shall set forth the procedure for filing a complaint with the joint commission on public ethics, and which shall contain DISCLOSURE FORMS FILED PURSUANT TO SECTION SEVENTY-SEVEN-B OF THE PUBLIC OFFICERS LAW AND any other records or information which the commission determines to be appropriate.

S 4. This act shall take effect immediately provided that section one of this act shall be deemed to have been in full force and effect on and after January 1, 2012.