

6584

I N S E N A T E

March 1, 2012

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

AN ACT to amend the public officers law, in relation to activities by former state officers

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

1 Section 1. Paragraph (b) of subdivision 8 of section 73 of the public  
2 officers law, as amended by chapter 574 of the laws of 2011, is amended  
3 to read as follows:

4 (b) (i) The provisions of subparagraph (i) of paragraph (a) of this  
5 subdivision shall not apply to any state officer or employee whose  
6 employment was terminated on or after January first, nineteen hundred  
7 ninety-five and before April first, nineteen hundred ninety-nine or on  
8 or after January first, two thousand nine and before April first, two  
9 thousand [twelve] FOURTEEN because of economy, consolidation or aboli-  
10 tion of functions, curtailment of activities or other reduction in the  
11 state work force. On or before the date of such termination of employ-  
12 ment, the state agency shall provide to the terminated employee a writ-  
13 ten certification that the employee has been terminated because of econ-  
14 omy, consolidation or abolition of functions, curtailment of activities  
15 or other reduction in the state work force, and that such employee is  
16 covered by the provisions of this paragraph. The written certification  
17 shall also contain a notice describing the rights and responsibilities  
18 of the employee pursuant to the provisions of this section. The certif-  
19 ication and notice shall contain the information and shall be in the  
20 form set forth below:

21 CERTIFICATION AND NOTICE

22 TO: Employee's Name: \_\_\_\_\_  
23 State agency: \_\_\_\_\_  
24 Date of Termination: \_\_\_\_\_

25 I, (name and title) of (state agency), hereby certify that your termi-  
26 nation from State service is because of economy, consolidation or aboli-

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

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1 tion of functions, curtailment of activities or other reduction in the  
2 State work force. Therefore, you are covered by the provisions of para-  
3 graph (b) of subdivision eight of section seventy-three of the Public  
4 Officers Law.

5 You were designated as a policy maker: YES \_\_\_\_\_ NO \_\_\_\_\_

6 \_\_\_\_\_  
7 (TITLE)

8 TO THE EMPLOYEE:

9 This certification affects your right to engage in certain activities  
10 after you leave state service.

11 Ordinarily, employees who leave State service may not, for two years,  
12 appear or practice before their former agency or receive compensation  
13 for rendering services on a matter before their former agency. However,  
14 because of this certification, you may be exempt from this restriction.

15 If you were not designated as a Policymaker by your agency, you are  
16 automatically exempt. You may, upon leaving State service, immediately  
17 appear, practice or receive compensation for services rendered before  
18 your former agency.

19 If you were designated as a Policymaker by your agency, you are eligi-  
20 ble to apply for an exemption to the Commission on Public Integrity at  
21 540 Broadway, Albany, New York 12207.

22 Even if you are or become exempt from the two year bar, the lifetime  
23 bar of the revolving door statute will continue to apply to you. You may  
24 not appear, practice, communicate or otherwise render services before  
25 any State agency in relation to any case, proceeding, application or  
26 transaction with respect to which you were directly concerned and in  
27 which you personally participated during your State service, or which  
28 was under your active consideration.

29 If you have any questions about the application of the post-employment  
30 restrictions to your circumstances, you may contact the Commission on  
31 Public Integrity at (518) 408-3976 or 1-800-87ETHIC (1-800-873-8442).

32 (ii) The provisions of subparagraph (i) of this paragraph shall not  
33 apply to any such officer or employee who at the time of or prior to  
34 such termination had served in a policymaking position as determined by  
35 the appointing authority, which determination had been filed with the  
36 state ethics commission or the commission on public integrity, provided  
37 that such officer or employee may so appear or practice or receive such  
38 compensation with the prior approval of the state ethics commission or  
39 the commission on public integrity. In determining whether to grant such  
40 approval the state ethics commission or the commission on public integ-  
41 rity shall consider:

42 A. whether the employee's prior job duties involved substantial deci-  
43 sion-making authority over policies, rule or contracts;

44 B. the nature of the duties to be performed by the employee for the  
45 prospective employer;

46 C. whether the prospective employment is likely to involve substantial  
47 contact with the employee's former agency and the extent to which any  
48 such contact is likely to involve matters where the agency has the  
49 discretion to make decisions based on the work product of the employee;

50 D. whether the prospective employment may be beneficial to the state  
51 or the public; and

52 E. the extent of economic hardship to the employee if the application  
53 is denied.

54 S 2. This act shall take effect immediately and shall be deemed to  
55 have been in full force and effect on or after April 1, 2012.