

7852

I N S E N A T E

October 3, 2012

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 Article 5 of the legislative law is REPEALED.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.