

7621

2013-2014 Regular Sessions

I N A S S E M B L Y

May 28, 2013

Introduced by M. of A. BARCLAY, KOLB -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the legislative law, in relation to creating an assembly
standing committee on ethics and guidance

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

1 Section 1. The legislative law is amended by adding a new section 68
2 to read as follows:

3 S 68. ASSEMBLY STANDING COMMITTEE ON ETHICS AND GUIDANCE. 1. THERE IS
4 ESTABLISHED A STANDING COMMITTEE IN THE ASSEMBLY ON ETHICS AND GUIDANCE
5 WHICH SHALL REPLACE THE STANDING COMMITTEE ON ETHICS AND GUIDANCE AS
6 ESTABLISHED BY THE RULES OF THE ASSEMBLY. THE COMMITTEE SHALL CONSIST OF
7 AN EQUAL NUMBER OF MAJORITY AND MINORITY MEMBERS FOR A TOTAL OF EIGHT
8 MEMBERS. THE EIGHT MEMBERS SHALL BE MEMBERS OF THE ASSEMBLY AND
9 APPOINTED AS FOLLOWS: FOUR BY THE SPEAKER OF THE ASSEMBLY AND FOUR BY
10 THE MINORITY LEADER OF THE ASSEMBLY.

11 2. THE COMMITTEE SHALL SERVE AS DESCRIBED IN THIS SECTION AND HAVE AND
12 EXERCISE THE POWERS AND DUTIES SET FORTH IN THIS SECTION ONLY WITH
13 RESPECT TO MEMBERS OF THE ASSEMBLY AND ASSEMBLY EMPLOYEES.

14 3. MEMBERS OF THE ASSEMBLY WHO SERVE ON THE COMMITTEE SHALL EACH HAVE
15 A TWO YEAR TERM CONCURRENT WITH THEIR LEGISLATIVE TERMS OF OFFICE.

16 4. MEMBERS OF THE COMMITTEE MAY ONLY BE REMOVED BY A MAJORITY VOTE OF
17 THE COMMITTEE SOLELY FOR SUBSTANTIAL NEGLIGENCE OF DUTY, GROSS MISCONDUCT
18 IN OFFICE, VIOLATION OF THE CONFIDENTIALITY RESTRICTIONS IN THIS
19 SECTION, INABILITY TO DISCHARGE THE POWERS OR DUTIES OF OFFICE OR
20 VIOLATION OF THIS SECTION, AFTER WRITTEN NOTICE AND OPPORTUNITY FOR A
21 REPLY.

22 5. THE SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY
23 SHALL EACH DESIGNATE ONE MEMBER OF THE COMMITTEE AS A CO-CHAIRPERSON
24 THEREOF. THE CO-CHAIRPERSONS SHALL RECEIVE COMPENSATION AS PROVIDED FOR
25 IN SECTION FIVE-A OF THIS CHAPTER.

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

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1 6. THE COMMITTEE SHALL MEET AT LEAST BI-MONTHLY AND AT SUCH ADDITIONAL
2 TIMES AS MAY BE CALLED FOR BY THE CO-CHAIRPERSONS JOINTLY OR ANY FOUR
3 MEMBERS OF THE COMMITTEE.

4 7. ANY VACANCY OCCURRING ON THE COMMITTEE SHALL BE FILLED WITHIN THIR-
5 TY DAYS BY THE APPOINTING AUTHORITY.

6 8. FIVE MEMBERS OF THE COMMITTEE SHALL CONSTITUTE A QUORUM, AND THE
7 COMMITTEE SHALL HAVE POWER TO ACT BY MAJORITY VOTE OF THE TOTAL NUMBER
8 OF MEMBERS OF THE COMMITTEE WITHOUT VACANCY.

9 9. THE COMMITTEE SHALL BE FUNDED SEPARATELY FROM THE ASSEMBLY APPRO-
10 PRIATIONS PROVIDED ANNUALLY IN AN AMOUNT DEEMED APPROPRIATE BY AN AGREE-
11 MENT OF THE CO-CHAIRS FOR THE MAINTENANCE AND OPERATION OF THE COMMIT-
12 TEE. SUCH APPROPRIATION FOR THE COMMITTEE SHALL BE SPECIFICALLY LINED
13 OUT IN THE LEGISLATIVE BUDGET. THE EXECUTIVE DIRECTOR AND EMPLOYEES OF
14 THE COMMITTEE SHALL BE CONSIDERED AS EMPLOYEES OF THE ASSEMBLY FOR ALL
15 PURPOSES.

16 10. THE COMMITTEE SHALL:

17 (A) APPOINT AN EXECUTIVE DIRECTOR WHO SHALL ACT IN ACCORDANCE WITH THE
18 POLICIES OF THE COMMITTEE, PROVIDED THAT THE COMMITTEE MAY REMOVE THE
19 EXECUTIVE DIRECTOR BY A MAJORITY VOTE FOR NEGLIGENCE OF DUTY, MISCONDUCT IN
20 OFFICE, OR INABILITY OR FAILURE TO DISCHARGE THE POWERS OR DUTIES OF
21 OFFICE;

22 (B) APPOINT SUCH OTHER STAFF AS ARE NECESSARY TO ASSIST IT TO CARRY
23 OUT ITS DUTIES UNDER THIS SECTION;

24 (C) ADOPT, AMEND, AND RESCIND POLICIES, RULES AND REGULATIONS CONSIST-
25 ENT WITH THIS SECTION TO GOVERN PROCEDURES OF THE COMMITTEE;

26 (D) ADMINISTER THE PROVISIONS OF THIS SECTION;

27 (E) REVIEW ALL RULES AND POLICIES OF THE SPEAKER OR THE ASSEMBLY
28 RELATING TO CONDUCT OF MEMBERS AND EMPLOYEES OF THE ASSEMBLY, INCLUDING
29 BUT NOT LIMITED TO ETHICS, SEXUAL HARASSMENT AND FRATERNIZATION WITH
30 STUDENT INTERNS, AND RECOMMEND TO THE SPEAKER OF THE ASSEMBLY AND THE
31 MINORITY LEADER OF THE ASSEMBLY ANY CHANGES TO SUCH RULES AND POLICIES
32 OR OFFER MOTIONS TO AMEND RULES OF THE ASSEMBLY, OR OFFER MOTIONS TO
33 SUSPEND RULES OF THE ASSEMBLY, OR ADOPT POLICIES RELATING TO CONDUCT OF
34 MEMBERS AND EMPLOYEES OF THE ASSEMBLY, INCLUDING BUT NOT LIMITED TO
35 ETHICS, SEXUAL HARASSMENT AND FRATERNIZATION WITH STUDENT INTERNS. ANY
36 SUCH POLICY RELATING TO CONDUCT OF MEMBERS AND EMPLOYEES OF THE ASSEMBLY
37 ADOPTED BY THE COMMITTEE SHALL BE THE POLICY OF THE ASSEMBLY AND SUBJECT
38 TO THE PROVISIONS OF THIS SECTION;

39 (F) DEVELOP AND REGULARLY UPDATE A COURSE OF INSTRUCTION FOR ALL
40 MEMBERS AND EMPLOYEES OF THE ASSEMBLY WITH REGARD TO THE LAWS AND POLI-
41 CIES GOVERNING THEIR CONDUCT. THE COMMITTEE SHALL RECOMMEND TO THE
42 SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY A
43 CONDUCT AND ETHICS TRAINING PLAN FOR IMPLEMENTING AND SCHEDULING SUCH
44 COURSE OF INSTRUCTION FOR MEMBERS, EMPLOYEES AND NEWLY-HIRED EMPLOYEES;

45 (G) PREPARE AN ANNUAL REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE
46 MINORITY LEADER OF THE ASSEMBLY SUMMARIZING THE ACTIVITIES OF THE
47 COMMITTEE DURING THE PREVIOUS YEAR AND RECOMMENDING ANY CHANGES IN THE
48 LAWS GOVERNING THE CONDUCT OF PERSONS SUBJECT TO THE JURISDICTION OF THE
49 COMMITTEE, OR THE RULES, REGULATIONS AND PROCEDURES GOVERNING THE
50 COMMITTEE'S CONDUCT. SUCH REPORT SHALL INCLUDE: (I) A LISTING BY
51 ASSIGNED NUMBER OF EACH COMPLAINT INCLUDING CURRENT STATUS OF EACH
52 COMPLAINT, (II) WHERE A MATTER WAS DEFERRED, AND (III) WHERE A MATTER
53 HAS BEEN RESOLVED, THE DATE AND NATURE OF THE DISPOSITION AND ANY SANC-
54 TION IMPOSED, SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF THIS
55 SECTION; AND

1 (H) INVESTIGATE COMPLAINTS AND IMPOSE DISCIPLINARY MEASURES AGAINST
2 MEMBERS AND EMPLOYEES FOUND IN VIOLATION OF RULES AND POLICIES OF THE
3 SPEAKER OR THE ASSEMBLY OR THE PUBLIC OFFICERS LAW OR OTHER LAW.

4 11. INVESTIGATIONS, MANDATORY REPORTING OF VIOLATIONS, AND ENFORCEMENT
5 AUTHORITY:

6 (A) THE COMMITTEE SHALL HAVE THE AUTHORITY, ON ITS OWN ACCORD, TO
7 INITIATE BY A MAJORITY VOTE AN INVESTIGATION INTO A POSSIBLE VIOLATION,
8 BY ANY MEMBER OR EMPLOYEE OF THE ASSEMBLY, OF THE RULES OR POLICY OF THE
9 SPEAKER OR THE ASSEMBLY OR OF THE PUBLIC OFFICERS LAW OR OTHER LAW.

10 (B) ANY FORMAL OR INFORMAL COMPLAINT OF A VIOLATION OF RULES AND POLI-
11 CIES OF THE SPEAKER OR THE ASSEMBLY RELATING TO CONDUCT OF MEMBERS AND
12 EMPLOYEES OF THE ASSEMBLY OR OF A VIOLATION OF THE PUBLIC OFFICERS LAW
13 OR OTHER LAW, MUST BE REPORTED TO THE COMMITTEE WITHIN FIVE DAYS OF SUCH
14 COMPLAINT BEING MADE TO COUNSEL, OFFICE OF HUMAN RESOURCES, OFFICE OF
15 ADMINISTRATION AND PERSONNEL OR INTAKE REPRESENTATIVE.

16 (C) THE COMMITTEE SHALL REVIEW SUCH COMPLAINT AT THE NEXT MEETING OF
17 SUCH COMMITTEE AND DETERMINE BY MAJORITY VOTE WHETHER TO INVESTIGATE
18 SUCH COMPLAINT FURTHER, COMMENCE A FULL FORMAL INVESTIGATION OF SUCH
19 COMPLAINT OR DEFER SUCH COMPLAINT TO THE JOINT COMMISSION ON PUBLIC
20 ETHICS, THE LEGISLATIVE ETHICS COMMISSION, OR AN APPROPRIATE PROSECUTOR.
21 THE STAFF OF THE COMMITTEE SHALL PROVIDE TO THE MEMBERS OF THE COMMITTEE
22 PRIOR TO SUCH VOTE INFORMATION REGARDING THE LIKELY SCOPE AND CONTENT OF
23 THE INVESTIGATION, AND A SUBPOENA PLAN, TO THE EXTENT SUCH INFORMATION
24 IS AVAILABLE.

25 (D) IF THE COMMITTEE DETERMINES BY MAJORITY VOTE THAT A FULL FORMAL
26 INVESTIGATION SHALL COMMENCE THE COMMITTEE SHALL NOTIFY THE INDIVIDUAL
27 IN WRITING, DESCRIBE THE POSSIBLE OR ALLEGED VIOLATION OF RULES AND
28 POLICIES OF THE SPEAKER OR THE ASSEMBLY RELATED TO CONDUCT OF MEMBERS
29 AND EMPLOYEES OF THE ASSEMBLY OR OF A VIOLATION OF THE PUBLIC OFFICERS
30 LAW OR OTHER LAW AND PROVIDE THE PERSON WITH A FIFTEEN DAY PERIOD IN
31 WHICH TO SUBMIT A WRITTEN RESPONSE SETTING FORTH INFORMATION RELATING TO
32 THE ACTIVITIES CITED AS A POSSIBLE OR ALLEGED VIOLATION OF SUCH RULES
33 AND POLICIES.

34 (E) THE COMMITTEE HAS THE AUTHORITY TO CONDUCT ANY INQUIRY PERTINENT
35 OR MATERIAL TO THE DISCHARGE OF THE FUNCTIONS, POWERS AND DUTIES IMPOSED
36 BY LAW; AND THROUGH DESIGNATED MEMBERS OF THE STAFF, TO SUBPOENA
37 WITNESSES, ADMINISTER OATHS, TAKE TESTIMONY AND COMPEL THE PRODUCTION OF
38 SUCH BOOKS, PAPERS, RECORDS AND DOCUMENTS AS MAY BE RELEVANT TO ANY SUCH
39 INQUIRY AND INVESTIGATION.

40 (F) IF THE COMMITTEE DETERMINES AT ANY STAGE THAT THERE IS NO
41 VIOLATION, IT SHALL SO ADVISE THE INDIVIDUAL AND THE COMPLAINANT, IF
42 ANY. ALL OF THE FOREGOING PROCEEDINGS SHALL BE CONFIDENTIAL.

43 (G) THE JURISDICTION OF THE COMMITTEE WHEN ACTING PURSUANT TO THIS
44 SECTION SHALL CONTINUE NOTWITHSTANDING THAT A MEMBER OF THE ASSEMBLY OR
45 ASSEMBLY EMPLOYEE SEPARATES FROM ASSEMBLY SERVICE, PROVIDED THAT THE
46 COMMITTEE NOTIFIES SUCH INDIVIDUAL OF THE ALLEGED VIOLATION OF RULES AND
47 POLICIES OF THE SPEAKER OR THE ASSEMBLY RELATING TO CONDUCT OF MEMBERS
48 AND EMPLOYEES OF THE ASSEMBLY OR OF A VIOLATION OF THE PUBLIC OFFICERS
49 LAW PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION WITHIN ONE YEAR FROM
50 HIS OR HER SEPARATION FROM ASSEMBLY SERVICE.

51 (H) IF DURING THE COURSE OF ITS INVESTIGATION THE COMMITTEE DEEMS THAT
52 A VIOLATION OF RULES AND POLICIES OF THE SPEAKER OR THE ASSEMBLY RELATED
53 TO CONDUCT OF MEMBERS AND EMPLOYEES OF THE ASSEMBLY OR A VIOLATION OF
54 THE PUBLIC OFFICERS LAW OR OTHER LAW HAS OCCURRED, THE COMMITTEE SHALL
55 NOTIFY THE INDIVIDUAL IN WRITING.

1 (I) THE COMMITTEE SHALL HAVE THE AUTHORITY TO (I) RECOMMEND PUNISH-
 2 MENTS FOR VIOLATIONS OF RULES AND POLICIES OF THE SPEAKER OR THE ASSEM-
 3 BLY, OR THE PUBLIC OFFICERS LAW OR OTHER LAW, INCLUDING BUT NOT LIMITED
 4 TO CENSURE, STRIPPING MEMBERS OF LEADERSHIP POSITIONS OR EXPULSION
 5 PURSUANT TO SECTION THREE OF THIS CHAPTER AND (II) ACCESS PENALTIES
 6 PURSUANT TO APPLICABLE LAW OR RULE.

7 (J) NO MEMBER OR EMPLOYEE OF THE ASSEMBLY SHALL TAKE ANY ADVERSE
 8 PERSONNEL ACTION WITH RESPECT TO ANOTHER MEMBER OR EMPLOYEE OF THE
 9 ASSEMBLY IN RETALIATION FOR HIS OR HER MAKING A REPORT TO THE COMMITTEE,
 10 OR FOR HIS OR HER OFFICIAL DUTIES AS A MEMBER OF THE COMMITTEE, CONCERN-
 11 ING CONDUCT WHICH HE OR SHE KNOWS OR REASONABLY BELIEVES TO BE A
 12 VIOLATION OF RULES AND POLICIES OF THE SPEAKER OR THE ASSEMBLY OR THE
 13 PUBLIC OFFICERS LAW OR OTHER LAW.

14 (K) NOTWITHSTANDING THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFI-
 15 CERS LAW, THE ONLY RECORDS OF THE COMMITTEE WHICH SHALL BE AVAILABLE FOR
 16 PUBLIC INSPECTION AND COPYING ARE:

17 (I) THE TERMS OF ANY SETTLEMENT OR COMPROMISE OF A COMPLAINT OR REFER-
 18 RAL OR REPORT WHICH INCLUDES A FINE, PENALTY OR OTHER REMEDY REACHED BY
 19 THE COMMITTEE; AND

20 (II) ALL REPORTS REQUIRED BY THIS SECTION.

21 12. NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC
 22 OFFICERS LAW, NO MEETING OR PROCEEDING OF THE COMMITTEE SHALL BE OPEN TO
 23 THE PUBLIC, EXCEPT IF EXPRESSLY PROVIDED OTHERWISE BY THIS SECTION OR
 24 THE COMMITTEE.

25 S 2. That portion of subdivision 1 of section 5-a of the legislative
 26 law entitled "ASSEMBLYMEN SERVING IN SPECIAL CAPACITY", as amended by
 27 section 3 of part XX of chapter 56 of the laws of 2009, is amended to
 28 read as follows:

29 ASSEMBLYMEN SERVING IN SPECIAL CAPACITY

30	Chairman of assembly ways and means committee	34,000
31	Ranking minority member of assembly ways and means	
32	committee	20,500
33	Chairman of assembly judiciary committee	18,000
34	Ranking minority member of assembly judiciary	
35	committee	11,000
36	Chairman of assembly codes committee	18,000
37	Ranking minority member of assembly codes	
38	committee	11,000
39	Chairman of assembly banks committee	15,000
40	Ranking minority member of assembly banks committee	9,500
41	Chairman of assembly committee on cities	15,000
42	Ranking minority member of assembly committee on cities	9,500
43	Chairman of assembly education committee	18,000
44	Ranking minority member of assembly education committee	11,000
45	Chairman of assembly health committee	15,000
46	Ranking minority member of assembly health committee	9,500
47	Chairman of assembly local governments committee	15,000
48	Ranking minority member of assembly local governments	
49	committee	9,500
50	Chairman of assembly agriculture committee	12,500
51	Ranking minority member of assembly agriculture committee	9,000
52	Chairman of assembly economic development, job creation,	
53	commerce and industry committee	18,000
54	Ranking minority member of assembly economic development,	

1	job creation, commerce and industry committee	11,000
2	Chairman of assembly environmental conservation committee	12,500
3	Ranking minority member of assembly environmental	
4	conservation committee	9,000
5	Chairman of assembly corporations, authorities	
6	and commissions committee	15,000
7	Ranking minority member of assembly corporations,	
8	authorities, and commissions committee	9,500
9	Chairman of assembly correction committee	12,500
10	Ranking minority member of assembly correction committee	9,000
11	MAJORITY Chairman of assembly ethics and guidance	
12	committee	12,500
13	[Ranking minority member of assembly ethics and guidance	
14	committee	9,000]
15	MINORITY CHAIRMAN OF ASSEMBLY ETHICS AND GUIDANCE	
16	COMMITTEE	12,500
17	Chairman of assembly governmental employees committee	12,500
18	Ranking minority member of assembly governmental	
19	employees committee	9,000
20	Chairman of assembly governmental operations committee	12,500
21	Ranking minority member of assembly governmental	
22	operations committee	9,000
23	Chairman of assembly housing committee	12,500
24	Ranking minority member of assembly housing committee	9,000
25	Chairman of assembly insurance committee	12,500
26	Ranking minority member of assembly insurance committee	9,000
27	Chairman of assembly labor committee	14,000
28	Ranking minority member of assembly labor committee	9,000
29	Chairman of assembly racing and wagering committee	12,500
30	Ranking minority member of assembly racing and wagering	
31	committee	9,000
32	Chairman of assembly social services committee	12,500
33	Ranking minority member of assembly social services	
34	committee	9,000
35	Chairman of assembly small business committee	12,500
36	Ranking minority member of assembly small business	
37	committee	9,000
38	Chairman of assembly transportation committee	15,000
39	Ranking minority member of assembly transportation	
40	committee	9,500
41	Chairman of assembly veterans' affairs committee	12,500
42	Ranking minority member of assembly veterans' affairs	
43	committee	9,000
44	Chairman of assembly aging committee	12,500
45	Ranking minority member of assembly aging committee	9,000
46	Chairman of the assembly alcoholism and drug abuse	
47	committee	12,500
48	Ranking minority member of the assembly	
49	alcoholism and drug abuse committee	9,000
50	Chairman of assembly committee on mental health,	
51	mental retardation and developmental disabilities	12,500
52	Ranking minority member of assembly committee on mental health,	
53	mental retardation and developmental disabilities	9,000
54	Chairman of assembly higher education committee	12,500
55	Ranking minority member of assembly higher education	

1 committee 9,000
2 Chairman of assembly real property taxation committee 12,500
3 Ranking minority member of assembly real property
4 taxation committee 9,000
5 Chairman of assembly election law committee 12,500
6 Ranking minority member of assembly election
7 law committee 9,000
8 Chairman of assembly children and families committee 12,500
9 Ranking minority member of assembly children
10 and families committee 9,000
11 Chairman of assembly consumer affairs and protection
12 committee 12,500
13 Ranking minority member of assembly consumer affairs and
14 protection committee 9,000
15 Chairman of the assembly energy committee 12,500
16 Ranking minority member of assembly energy committee 9,000
17 Chairman of assembly tourism, parks, arts and sports development
18 committee 12,500
19 Ranking minority member of assembly tourism, parks, arts and
20 sports development committee 9,000
21 Chairman of assembly oversight, analysis and investigation
22 committee 12,500
23 Ranking minority member of assembly oversight,
24 analysis and investigation committee 9,000
25 Chairman of assembly office of state-federal relations 12,500
26 Chairman of majority house operations 12,500
27 Chairman of minority house operations 9,000
28 Co-chairman of the administrative regulations review
29 commission 12,500

30 S 3. Severability clause. If any part or provision of this section or
31 the application thereof to any person is adjudged by a court of compe-
32 tent jurisdiction to be unconstitutional or otherwise invalid, such
33 judgment shall not affect or impair any other part or provision or the
34 application thereof to any other person, but shall be confined to such
35 part or provision.

36 S 4. This act shall take effect immediately.