

5973

2013-2014 Regular Sessions

I N   S E N A T E

October 29, 2013

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Introduced by Sens. LANZA, SAVINO -- read twice and ordered printed, and  
when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to examination and  
inspection by the governor

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

1     Section 1. Section 6 of the executive law, the second undesignated  
2 paragraph as added by chapter 198 of the laws of 1957, is amended to  
3 read as follows:

4     S 6. Examination and inspection by the governor. 1. (A) The governor  
5 is authorized at any time, either in person or by one or more persons  
6 appointed by him for the purpose, to examine and investigate the manage-  
7 ment and affairs of any department, board, bureau or commission of the  
8 state. The governor and the persons so appointed by him are empowered to  
9 subpoena and enforce the attendance of witnesses, to administer oaths  
10 and examine witnesses under oath and to require the production of any  
11 books or papers deemed relevant or material. [Whenever any person so  
12 appointed shall not be regularly in the service of the state his]

13     (B) ONCE FORMED, THE CONDUCT OF THOSE PERSONS APPOINTED BY THE GOVER-  
14 NOR SHALL BE INDEPENDENT OF THE GOVERNOR, THE GOVERNOR'S EXECUTIVE  
15 STAFF, AND THE VARIOUS STATE AGENCIES UNDER THE CONTROL OF THE EXECUTIVE  
16 BRANCH.

17     (C) AT THE FIRST FORMAL MEETING OF THE PERSONS APPOINTED, THEY SHALL  
18 ESTABLISH RULES AND PROCEDURES NECESSARY TO GOVERN THE EXERCISE OF THE  
19 POWERS AND AUTHORITY GIVEN OR GRANTED TO THE PERSONS APPOINTED PURSUANT  
20 TO THIS SECTION OR ANY OTHER SECTION OF LAW, INCLUDING RULES DESIGNED TO  
21 PROVIDE TRANSPARENCY WHILE PROTECTING THE INTEGRITY OF THE INVESTIGATION  
22 AND RIGHTS TO PRIVACY. THESE RULES AND PROCEDURES ARE TO BE MADE PUBLIC  
23 BEFORE THE SECOND FORMAL MEETING OF THOSE PERSONS. IN NO EVENT SHALL THE  
24 PERSONS APPOINTED ISSUE ANY SUBPOENA, IF SO AUTHORIZED BY THE EXECUTIVE  
25 ORDER, PRIOR TO MAKING SUCH RULES AND PROCEDURES PUBLICLY AVAILABLE.

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

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1 2. (A) NO INDIVIDUAL SHALL BE ELIGIBLE FOR APPOINTMENT WHO CURRENTLY  
2 OR WITHIN THE LAST THREE YEARS:

3 (I) IS OR HAS BEEN REGISTERED AS A LOBBYIST IN NEW YORK STATE;

4 (II) IS OR HAS BEEN A MEMBER OF THE NEW YORK STATE LEGISLATURE, A  
5 STATEWIDE ELECTED OFFICIAL, COMMISSIONER OF AN EXECUTIVE AGENCY  
6 APPOINTED BY THE GOVERNOR, OR ANY ELECTED PUBLIC OFFICIAL OF ANY COUNTY,  
7 TOWN, VILLAGE OR CITY;

8 (III) IS OR HAS BEEN A POLITICAL PARTY CHAIRPERSON, AS DEFINED IN  
9 PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC  
10 OFFICERS LAW; OR

11 (IV) IS OR HAS BEEN A TREASURER, CANDIDATE OR AFFILIATED WITH ANY  
12 ESTABLISHED CANDIDATE OR PARTY POLITICAL COMMITTEE THAT HAS RECEIVED  
13 CONTRIBUTIONS.

14 (B) NO INDIVIDUAL SHALL BE ELIGIBLE FOR APPOINTMENT WHO CURRENTLY OR  
15 WITHIN THE LAST YEAR IS OR HAS BEEN A STATE OFFICER OR EMPLOYEE OR  
16 LEGISLATIVE EMPLOYEE AS DEFINED IN SECTION SEVENTY-THREE OF THE PUBLIC  
17 OFFICERS LAW.

18 3. ANY PERSON APPOINTED BY THE GOVERNOR SHALL HAVE HIS OR HER compen-  
19 sation for such services [shall be] fixed by the governor, WITHIN THE  
20 AMOUNTS APPROPRIATED THEREFOR and said compensation and all necessary  
21 expenses of such examinations and investigations shall be paid from the  
22 treasury out of any appropriations made for the SPECIFIC purpose OF A  
23 COMMISSION ORGANIZED PURSUANT TO THIS SECTION, upon the order of the  
24 governor and the audit and warrant of the comptroller.

25 4. Notwithstanding any inconsistent provision of any general, special  
26 or local law, charter, administrative code or other statute, service  
27 rendered by a person appointed by the governor pursuant to this section  
28 shall not constitute or be deemed state service or re-entry into state  
29 service under the civil service law, the retirement and social security  
30 law or under any charter, administrative code, or other general, special  
31 or local law relating to a state or municipal retirement or pension  
32 system so as to suspend, impair or otherwise affect or interfere with  
33 the pension or retirement status, rights, privileges and benefits of  
34 such person under any such system or to interfere with the right of such  
35 person or his beneficiary to receive any pension or annuity benefits or  
36 death benefits by reason of the selection of any option under any such  
37 system.

38 5. FOR THE PURPOSES OF THIS SECTION, OFFICIAL RECORDS OF ANY PERSONS  
39 APPOINTED BY THE GOVERNOR PURSUANT TO THIS SECTION OF LAW SHALL INCLUDE  
40 ALL BOOKS, PAPERS, MAPS, PHOTOGRAPHS, OR OTHER DOCUMENTARY MATERIALS,  
41 REGARDLESS OF PHYSICAL FORM OR CHARACTERISTICS, MADE OR RECEIVED BY THE  
42 APPOINTED PERSONS IN ACCORDANCE WITH THIS SECTION OR IN CONNECTION WITH  
43 THE TRANSACTION OF PUBLIC BUSINESS SHALL BE PRESERVED AT THE CONCLUSION  
44 OF SUCH INVESTIGATION AND SHALL BE DELIVERED TO AND MAINTAINED BY THE  
45 STATE ARCHIVES ESTABLISHED IN ARTICLE FIFTY-SEVEN OF THE ARTS AND  
46 CULTURAL AFFAIRS LAW AS EVIDENCE OF THE ORGANIZATION, FUNCTIONS, POLI-  
47 CIES, DECISIONS, PROCEDURES, OPERATIONS, OR OTHER ACTIVITIES, OR BECAUSE  
48 OF THE INFORMATION CONTAINED THEREIN.

49 S 2. This act shall take effect on the one hundred twentieth day after  
50 it shall have become a law.