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I N   S E N A T E

(PREFILED)

January 8, 2014

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Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the legislative law, in relation to prohibiting members of the legislature from receiving certain income and establishing the commission on legislative compensation

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

1     Section 1. The legislative law is amended by adding two new sections  
2     5-b and 5-c to read as follows:  
3     S 5-B. PROHIBITION ON OUTSIDE EARNED INCOME FOR MEMBERS. 1. NOTWITH-  
4     STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, MEMBERS OF THE  
5     LEGISLATURE ARE PROHIBITED FROM RECEIVING OUTSIDE EARNED INCOME FOR THE  
6     DURATION OF THEIR TERM IN OFFICE.  
7     2. FOR THE PURPOSES OF THIS SECTION, THE TERM "OUTSIDE EARNED INCOME"  
8     INCLUDES, BUT IS NOT LIMITED TO, WAGES, SALARIES, HONORARIA, COMMIS-  
9     SIONS, PROFESSIONAL FEES, AND OTHER FORMS OF COMPENSATION FOR SERVICES.  
10    3. FOR THE PURPOSES OF THIS SECTION, THE TERM "OUTSIDE EARNED INCOME"  
11    DOES NOT INCLUDE:  
12    A. SALARY, BENEFITS, AND ALLOWANCES PAID BY THE STATE OF NEW YORK;  
13    B. INCOME ATTRIBUTABLE TO SERVICE WITH THE MILITARY RESERVES OR  
14    NATIONAL GUARD;  
15    C. INCOME FROM PENSIONS AND OTHER CONTINUING BENEFITS ATTRIBUTABLE TO  
16    PREVIOUS EMPLOYMENT OR SERVICES;  
17    D. INCOME FROM INVESTMENT ACTIVITIES WHERE THE MEMBER'S SERVICES ARE  
18    NOT A MATERIAL FACTOR IN THE PRODUCTION OF INCOME;  
19    E. COPYRIGHT ROYALTIES, FEES, AND THEIR FUNCTIONAL EQUIVALENT, FROM  
20    THE USE OR SALE OF COPYRIGHT, PATENT AND SIMILAR FORMS OF INTELLECTUAL  
21    PROPERTY RIGHTS, WHEN RECEIVED FROM ESTABLISHED USERS OR PURCHASERS OF  
22    THOSE RIGHTS; OR  
23    F. COMPENSATION FOR SERVICES RENDERED PRIOR TO JANUARY FIRST, TWO  
24    THOUSAND FIFTEEN, OR BEFORE BECOMING A MEMBER OF THE LEGISLATURE.

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

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1 S 5-C. COMMISSION ON LEGISLATIVE COMPENSATION. 1. ON THE FIRST OF  
2 APRIL OF EVERY FOURTH YEAR, COMMENCING APRIL FIRST, TWO THOUSAND  
3 FIFTEEN, THERE SHALL BE ESTABLISHED FOR SUCH YEAR A COMMISSION ON LEGIS-  
4 LATIVE COMPENSATION TO EXAMINE, EVALUATE AND MAKE RECOMMENDATIONS WITH  
5 RESPECT TO ADEQUATE LEVELS OF COMPENSATION AND NON-SALARY BENEFITS FOR  
6 MEMBERS OF THE STATE LEGISLATURE. IN ACCORDANCE WITH THE PROVISIONS OF  
7 THIS SECTION, THE COMMISSION SHALL:

8 A. EXAMINE THE PREVAILING ADEQUACY OF PAY LEVELS AND NON-SALARY BENE-  
9 FITS RECEIVED BY MEMBERS OF THE STATE LEGISLATURE AND DETERMINE WHETHER  
10 ANY OF SUCH PAY LEVELS WARRANT ADJUSTMENT; AND

11 B. DETERMINE WHETHER, FOR ANY OF THE FOUR YEARS COMMENCING ON THE  
12 FIRST OF APRIL OF SUCH YEARS, FOLLOWING THE YEAR IN WHICH THE COMMISSION  
13 IS ESTABLISHED, THE ANNUAL SALARIES FOR THE MEMBERS OF THE STATE LEGIS-  
14 LATURE WARRANT ADJUSTMENT.

15 IN DISCHARGING ITS RESPONSIBILITIES UNDER PARAGRAPHS A AND B OF THIS  
16 SUBDIVISION, THE COMMISSION SHALL TAKE INTO ACCOUNT ALL APPROPRIATE  
17 FACTORS INCLUDING, BUT NOT LIMITED TO: THE OVERALL ECONOMIC CLIMATE;  
18 RATES OF INFLATION; CHANGES IN PUBLIC-SECTOR SPENDING; THE LEVELS OF  
19 COMPENSATION AND NON-SALARY BENEFITS RECEIVED BY JUDGES, EXECUTIVE  
20 BRANCH OFFICIALS AND LEGISLATORS OF OTHER STATES AND OF THE FEDERAL  
21 GOVERNMENT; THE LEVELS OF COMPENSATION AND NON-SALARY BENEFITS RECEIVED  
22 BY PROFESSIONALS IN GOVERNMENT, ACADEMIA AND PRIVATE AND NONPROFIT  
23 ENTERPRISE; AND THE STATE'S ABILITY TO FUND INCREASES IN COMPENSATION  
24 AND NON-SALARY BENEFITS.

25 2. THE COMMISSION SHALL CONSIST OF NINE MEMBERS TO BE APPOINTED AS  
26 FOLLOWS: THREE SHALL BE APPOINTED BY THE GOVERNOR; ONE SHALL BE  
27 APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE; ONE SHALL BE  
28 APPOINTED BY THE SPEAKER OF THE ASSEMBLY; ONE SHALL BE APPOINTED BY THE  
29 SENATE MINORITY LEADER; ONE SHALL BE APPOINTED BY THE ASSEMBLY MINORITY  
30 LEADER; AND TWO SHALL BE APPOINTED BY THE STATE COMPTROLLER. THE MEMBERS  
31 APPOINTED SHALL NOT BE EMPLOYEES OF THE STATE OR ANY POLITICAL SUBDIVI-  
32 SION THEREOF. THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMISSION  
33 FROM AMONG THE MEMBERS SO APPOINTED. VACANCIES IN THE COMMISSION SHALL  
34 BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS. TO THE EXTENT  
35 PRACTICABLE, MEMBERS OF THE COMMISSION SHALL HAVE EXPERIENCE IN ONE OR  
36 MORE OF THE FOLLOWING: DETERMINATION OF EXECUTIVE COMPENSATION, HUMAN  
37 RESOURCE ADMINISTRATION AND FINANCIAL MANAGEMENT.

38 3. THE COMMISSION MAY MEET WITHIN AND WITHOUT THE STATE, MAY HOLD  
39 PUBLIC HEARINGS AND SHALL HAVE ALL THE POWERS OF A LEGISLATIVE COMMITTEE  
40 PURSUANT TO THIS CHAPTER.

41 4. THE MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR  
42 THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES  
43 INCURRED IN THE PERFORMANCE OF THEIR DUTIES HEREUNDER.

44 5. TO THE MAXIMUM EXTENT FEASIBLE, THE COMMISSION SHALL BE ENTITLED TO  
45 REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILI-  
46 TIES, RESOURCES AND DATA OF ANY COURT, DEPARTMENT, DIVISION, BOARD,  
47 BUREAU, COMMISSION, AGENCY OR PUBLIC AUTHORITY OF THE STATE OR ANY POLI-  
48 TICAL SUBDIVISION THEREOF AS IT MAY REASONABLY REQUEST TO PROPERLY CARRY  
49 OUT ITS POWERS AND DUTIES PURSUANT TO THIS SECTION.

50 6. THE COMMISSION MAY REQUEST, AND SHALL RECEIVE, REASONABLE ASSIST-  
51 ANCE FROM STATE AGENCY PERSONNEL AS NECESSARY FOR THE PERFORMANCE OF ITS  
52 FUNCTIONS.

53 7. THE COMMISSION SHALL MAKE A REPORT TO THE GOVERNOR, THE STATE COMP-  
54 TROLLER AND THE LEGISLATURE OF ITS FINDINGS, CONCLUSIONS, DETERMINATIONS  
55 AND RECOMMENDATIONS, IF ANY, NOT LATER THAN ONE HUNDRED FIFTY DAYS AFTER  
56 ITS ESTABLISHMENT. EACH RECOMMENDATION MADE TO IMPLEMENT A DETERMINATION

1 PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION SHALL HAVE  
2 THE FORCE OF LAW, AND SHALL SUPERSEDE INCONSISTENT PROVISIONS OF SECTION  
3 FIVE OF THIS ARTICLE, UNLESS MODIFIED OR ABROGATED BY STATUTE PRIOR TO  
4 APRIL FIRST OF THE YEAR AS TO WHICH SUCH DETERMINATION APPLIES.

5 8. UPON THE MAKING OF ITS REPORT AS PROVIDED IN SUBDIVISION SEVEN OF  
6 THIS SECTION, EACH COMMISSION ESTABLISHED PURSUANT TO THIS SECTION SHALL  
7 BE DEEMED DISSOLVED.

8 9. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR OF ANY OTHER LAW,  
9 EACH INCREASE IN SALARY OR COMPENSATION OF ANY MEMBER OF THE LEGISLATURE  
10 PROVIDED BY THIS SECTION SHALL BE ADDED TO THE SALARY OR COMPENSATION OF  
11 SUCH MEMBER AT THE BEGINNING OF THAT PAYROLL PERIOD THE FIRST DAY OF  
12 WHICH IS NEAREST TO THE EFFECTIVE DATE OF SUCH INCREASE AS PROVIDED IN  
13 THIS SECTION, OR AT THE BEGINNING OF THE EARLIER OF TWO PAYROLL PERIODS  
14 THE FIRST DAYS OF WHICH ARE NEAREST BUT EQUALLY NEAR TO THE EFFECTIVE  
15 DATE OF SUCH INCREASE AS PROVIDED IN THIS SECTION; PROVIDED, HOWEVER,  
16 THE PAYMENT OF SUCH SALARY INCREASE PURSUANT TO THIS SECTION ON A DATE  
17 PRIOR THERETO INSTEAD OF ON SUCH EFFECTIVE DATE, SHALL NOT OPERATE TO  
18 CONFER ANY ADDITIONAL SALARY RIGHTS OR BENEFITS ON SUCH MEMBER.

19 10. THE ANNUAL SALARIES AS PRESCRIBED PURSUANT TO THIS SECTION FOR THE  
20 MEMBERS OF THE STATE LEGISLATURE WHENEVER ADJUSTED PURSUANT TO THE  
21 PROVISIONS OF THIS SECTION, SHALL BE ROUNDED UP TO THE NEAREST MULTIPLE  
22 OF ONE HUNDRED DOLLARS.

23 S 2. This act shall take effect January 1, 2015.