

7355

I N S E N A T E

April 20, 2016

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

AN ACT to amend the public officers law, the legislative law and the
executive law, in relation to mandatory ethics training for certain
officers and employees of the state; and to repeal subdivision 10 of
section 94 of the executive law relating thereto

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

1 Section 1. Article 4 of the public officers law is amended by adding a
2 new section 59 to read as follows:

3 S 59. MANDATORY ETHICS TRAINING. 1. THE FOLLOWING PERSONS SHALL ANNU-
4 ALLY COMPLETE THE ETHICS TRAINING PROVIDED IN SUBDIVISION TWO OF THIS
5 SECTION:

6 (A) EVERY EMPLOYEE OF A STATE AGENCY, AS DEFINED IN SUBDIVISION ONE OF
7 SECTION SEVENTY-FOUR OF THIS ARTICLE;

8 (B) EVERY LEGISLATIVE EMPLOYEE, AS DEFINED IN SUBDIVISION ONE OF
9 SECTION SEVENTY-FOUR OF THIS ARTICLE;

10 (C) EVERY EMPLOYEE OF THE DEPARTMENT OF LAW OR THE DEPARTMENT OF AUDIT
11 AND CONTROL;

12 (D) ALL OFFICERS AND EMPLOYEES EMPLOYED IN THE EXECUTIVE CHAMBER;

13 (E) EVERY MEMBER OF THE LEGISLATURE; AND

14 (F) THE GOVERNOR, THE ATTORNEY GENERAL AND THE COMPTROLLER.

15 2. (A) THE ETHICS TRAINING REQUIRED BY THIS SECTION SHALL INCLUDE, BUT
16 NOT BE LIMITED TO, INSTRUCTION ON THE REQUIREMENTS OF:

17 (I) SECTION SEVENTY-THREE OF THIS ARTICLE;

18 (II) SECTION SEVENTY-THREE-A OF THIS ARTICLE;

19 (III) SECTION SEVENTY-FOUR OF THIS ARTICLE;

20 (IV) SECTION SEVENTY-FOUR-A OF THIS ARTICLE;

21 (V) SECTION SEVENTY-FIVE-A OF THIS ARTICLE;

22 (VI) SECTION SEVENTY-SEVEN-A OF THIS ARTICLE;

23 (VII) SECTION SEVENTY-EIGHT OF THIS ARTICLE;

24 (XIII) SECTION SEVENTY-FIVE-B OF THE CIVIL SERVICE LAW; AND

25 (IX) SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW.

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

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(B) IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION, LEGISLATIVE EMPLOYEES AND MEMBERS OF THE LEGISLATURE SHALL COMPLETE INSTRUCTION IN THE REQUIREMENTS OF:

- (I) SECTION SEVENTY-THREE-B OF THIS ARTICLE;
- (II) SECTION SEVENTY-FIVE OF THIS ARTICLE;
- (III) SECTION SEVENTY-SIX OF THIS ARTICLE; AND
- (IV) SECTION SEVENTY-SEVEN-A OF THIS ARTICLE.

(C) THE TRAINING SHALL INCLUDE PRACTICAL APPLICATION OF THE MATERIAL COVERED AND A PARTICIPATORY QUESTION AND ANSWER SEGMENT. FURTHERMORE, THE COURSE OF INSTRUCTION SHALL INCLUDE ANY CHANGES IN THE LAW, RULES, REGULATIONS AND POLICIES RELATING TO THE REQUIRED COURSE MATERIAL, AND THE INTERPRETATION THEREOF.

3. THE ANNUAL TRAINING REQUIRED BY THIS SECTION SHALL AT A MINIMUM BE TWO HOURS IN DURATION.

4. EVERY PERSON WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL, UPON EACH COMPLETION OF TRAINING REQUIRED BY THIS SECTION, FILE A STATEMENT CERTIFYING SUCH WITH THE JOINT COMMISSION ON PUBLIC ETHICS.

5. EVERY NEWLY HIRED EMPLOYEE, AND NEWLY ELECTED MEMBER OF THE LEGISLATURE AND STATEWIDE OFFICIAL, WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION, SHALL COMPLETE AN ONLINE ETHICS ORIENTATION COURSE WITHIN THIRTY DAYS OF BECOMING SUBJECT TO THE ANNUAL TRAINING REQUIREMENTS OF THIS SECTION.

S 2. Paragraphs i and k of subdivision 7 of section 80 of the legislative law, as amended by section 9 of part A of chapter 399 of the laws of 2011, are amended to read as follows:

i. Upon written request from any person who is subject to the jurisdiction of the commission and the requirements of sections seventy-three, seventy-three-a and seventy-four of the public officers law, render formal advisory opinions on the requirements of said provisions. A formal written opinion rendered by the commission, until and unless amended or revoked, shall be binding on the legislative ethics commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense in any criminal or civil action. The joint commission on public ethics shall not investigate an individual for potential violations of law based upon conduct approved and covered in its entirety by such an opinion, except that such opinion shall not prevent or preclude an investigation of and report to the legislative ethics commission concerning the conduct of the person who obtained it by the joint commission on public ethics for violations of section seventy-three, seventy-three-a or seventy-four of the public officers law to determine whether the person accurately and fully represented to the legislative ethics commission the facts relevant to the formal advisory opinion and whether the person's conduct conformed to those factual representations. The joint commission shall be authorized and shall have jurisdiction to investigate potential violations of the law arising from conduct outside of the scope of the terms of the advisory opinion; [and]

k. Develop educational materials and ADMINISTER training with regard to legislative ethics for members of the legislature and legislative employees including an online ethics orientation course for newly-hired employees and[, as requested by the senate or the assembly, materials and training in relation to a comprehensive ethics training program] THE MANDATORY ETHICS TRAINING, AS REQUIRED BY SECTION FIFTY-NINE OF THE

1 PUBLIC OFFICERS LAW, FOR MEMBERS OF THE LEGISLATURE AND LEGISLATIVE
2 EMPLOYEES; and

3 S 3. Paragraphs (b-1), (i-1), (m) and (n) of subdivision 9 of section
4 94 of the executive law, paragraphs (b-1), (i-1) and (n) as added and
5 paragraph (m) as amended by section 6 of part A of chapter 399 of the
6 laws of 2011, are amended and three new paragraphs (o), (p) and (q) are
7 added to read as follows:

8 (b-1) Review and approve a staffing plan provided and prepared by the
9 executive director which shall contain, at a minimum, a list of the
10 various units and divisions as well as the number of positions in each
11 unit, titles and their duties, and salaries, as well as the various
12 qualifications for each position including, but not limited to, educa-
13 tion and prior experience for each position[.];

14 (i-1) Permit any person required to file a financial disclosure state-
15 ment to request an exemption from any requirement to report the identity
16 of a client pursuant to question 8(b) in such statement based upon an
17 exemption set forth in that question. The reporting individual need not
18 seek an exemption to refrain from disclosing the identity of any client
19 with respect to any matter he or she or his or her firm provided legal
20 representation to the client in connection with an investigation or
21 prosecution by law enforcement authorities, bankruptcy, or domestic
22 relations matters; in addition, clients or customers receiving medical
23 or dental services, mental health services, residential real estate
24 brokering services, or insurance brokering services need not be
25 disclosed[.];

26 (m) Determine a question common to a class or defined category of
27 persons or items of information required to be disclosed, where determi-
28 nation of the question will prevent undue repetition of requests for
29 exemption or deletion or prevent undue complication in complying with
30 the requirements of such section; [and]

31 (n) Promulgate guidelines for the commission to conduct a program of
32 random reviews, to be carried out in the following manner: (i) annual
33 statements of financial disclosure shall be selected for review in a
34 manner pursuant to which the identity of any particular person whose
35 statement is selected is unknown to the commission and its staff prior
36 to its selection; (ii) such review shall include a preliminary examina-
37 tion of the selected statement for internal consistency, a comparison
38 with other records maintained by the commission, including previously
39 filed statements and requests for advisory opinions, and examination of
40 relevant public information; (iii) upon completion of the preliminary
41 examination, the commission shall determine whether further inquiry is
42 warranted, whereupon it shall notify the reporting individual in writing
43 that the statement is under review, advise the reporting individual of
44 the specific areas of inquiry, and provide the reporting individual with
45 the opportunity to provide any relevant information related to the
46 specific areas of inquiry, and the opportunity to file amendments to the
47 selected statement on forms provided by the commission; and (iv) if
48 thereafter sufficient cause exists, the commission shall take additional
49 actions, as appropriate and consistent with law[.];

50 (O) DEVELOP EDUCATIONAL MATERIALS AND ADMINISTER TRAINING FOR THE
51 MANDATORY ETHICS TRAINING, REQUIRED BY SECTION FIFTY-NINE OF THE PUBLIC
52 OFFICERS LAW, FOR EMPLOYEES OF STATE AGENCIES, OFFICERS AND EMPLOYEES
53 EMPLOYED IN THE EXECUTIVE CHAMBER, EMPLOYEES OF THE DEPARTMENT OF LAW OR
54 THE DEPARTMENT OF AUDIT AND CONTROL, THE GOVERNOR, THE ATTORNEY GENERAL
55 AND THE COMPTROLLER;

1 (P) DEVELOP AND ADMINISTER AN ONLINE ETHICS ORIENTATION COURSE FOR
2 NEWLY HIRED EMPLOYEES AND NEWLY ELECTED OFFICIALS, WHO ARE SUBJECT TO
3 THE PROVISIONS OF SECTION FIFTY-NINE OF THE PUBLIC OFFICERS LAW; AND

4 (Q) ON AN ANNUAL BASIS, IN COORDINATION WITH THE LEGISLATIVE ETHICS
5 COMMISSION, DETERMINE THE STATUS OF COMPLIANCE WITH THE TRAINING
6 REQUIREMENTS OF SECTION FIFTY-NINE OF THE PUBLIC OFFICERS LAW BY EACH
7 OFFICER AND EMPLOYEE WHO IS SUBJECT TO THE PROVISIONS OF SUCH SECTION.

8 S 4. Subdivision 10 of section 94 of the executive law is REPEALED.

9 S 5. This act shall take effect on the one hundred twentieth day after
10 it shall have become a law. Provided, however, that, effective imme-
11 diately, any and all actions necessary to implement the provisions of
12 this act on its effective date are authorized and directed to be
13 completed on or before such date.