S T A T E O F N E W Y O R K

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

S 59. MANDATORY ETHICS TRAINING. 1. THE FOLLOWING PERSONS SHALL ANNUALLY COMPLETE THE ETHICS TRAINING PROVIDED IN SUBDIVISION TWO OF THIS SECTION:

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

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

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

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

(E) EVERY MEMBER OF THE LEGISLATURE; AND

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

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

(I) SECTION SEVENTY-THREE OF THIS ARTICLE;

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

(III) SECTION SEVENTY-FOUR OF THIS ARTICLE;

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

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

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

(VII) SECTION SEVENTY-EIGHT OF THIS ARTICLE;

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

(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

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

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

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

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

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

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

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

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

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

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

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